

AMENDED IN SENATE SEPTEMBER 8, 2003

AMENDED IN SENATE SEPTEMBER 4, 2003

AMENDED IN SENATE JULY 24, 2003

AMENDED IN SENATE JUNE 23, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1760

Introduced by Committee on Budget (Oropeza (Chair), Bermudez, Chan, Chu, Diaz, Dutra, Dymally, Goldberg, Hancock, Jackson, Liu, Montanez, Nakano, Pavley, Reyes, Simitian, and Wolk)

March 11, 2003

An act to amend Sections 13903 and 13957.7 of, to amend, repeal, and add Section 13957 of, and to add and repeal Section 13964.5 of, the Government Code, and to amend, repeal, and add Sections 1001.90 1202.4, and 2085.5 of the Penal Code, relating to victims of crime, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1760, as amended, Committee on Budget. Victims of crimes.

(1) Existing law provides for the indemnification of victims of specified types of crimes by the California Victim Compensation and Government Claims Board.

The bill would require the California Victim Compensation and Government Claims Board, in January of each year, until January 1, 2007, to determine whether sufficient funds will be available in the following fiscal year to pay all payments authorized and if the board

determines that there will be insufficient funds, the board would be required to determine the percentage necessary to reduce awards and payments, as specified. Payments that would be reduced pursuant to this provision would be deemed to be payment in full of the authorized reimbursement.

(2) Existing law provides that the Director of General Services is the chairman of the California Victim Compensation and Government Claims Board.

This bill would make the Secretary of the State and Consumer Services Agency the chair of that board, effective January 1, 2004.

(3) Existing law provides that the total award to or on behalf of each victim or derivative victim of a crime may not exceed \$35,000, except that the amount may be increased to \$70,000 if federal funds for that increase are available. In addition, existing law authorizes the board to pay up to \$2,000 to a victim for relocation expenses, if determined necessary for the personal safety or emotional well-being of the victim, as specified, and limits this authorization to once per victim, except as provided.

This bill would provide the total aggregate award to a victim and all derivative victims who sustain a loss as a result of the crime against the victim may not exceed this amount, except in the case where a victim is permanently disabled as a direct result of the crime. The bill would provide that a victim who is permanently disabled as a direct result of the crime would be individually eligible for the amount specified in existing law and a separate limit of \$70,000 would apply to the aggregate losses of all derivative victims deriving from that crime. This bill would limit relocation payments to \$2,000 per household rather than per victim, and would limit this authority to one payment or reimbursement per household, except as specified. These provisions would remain in effect until their repeal on January 1, 2007, on which date existing law would again become operative.

(4) Existing law provides that a person whose application for an award of victim compensation has been recommended for denial in whole or in part by staff may appeal to the board, and that the board shall pay attorney's fees representing the reasonable value of legal services rendered to the applicant, in an amount equal to 10 percent of the amount of the award, or five hundred dollars (\$500), whichever is less, for each victim and each derivative victim, as specified. Existing law provides that an attorney receiving fees from another source may waive the right to receive these fees.



This bill would specify that (a) these attorney's fees could be awarded only if the applicant receives compensation greater than is recommended after his or her application has been recommended for denial in whole or part, (b) that the amount of the attorney's fees cannot exceed the lesser of 10% of the amount of compensation or \$500, rather than being equal to the lesser of those amounts, and (c) that an attorney receiving fees from another source necessarily waives any right to receive fees under these provisions.

(5) Existing law requires the court to impose a diversion restitution fee that is commensurate with the seriousness of the offense on a criminal defendant whose case is diverted of not less than \$100 nor more than \$1,000, as specified. Existing law authorizes the court to waive the diversion restitution fee if there are compelling and extraordinary reasons. Existing law also requires a court to impose a restitution fine on any person convicted of a crime of not less than \$200 nor more than \$10,000 for a felony, and not less than \$100 nor more than \$1,000 for a misdemeanor.

This bill would increase the amount of a diversion restitution fee to not less than \$300 and not more than \$10,000 if the person is charged with a felony, and not less than \$200 and not more than \$1,000 if the person is charged with a misdemeanor, and would require courts to set restitution fines within the same ranges. These provisions would remain in effect until their repeal on January 1, 2007, on which date existing law would again become operative.

(6) Existing law requires the Director of Corrections to deduct a minimum of 20% or the balance owing on the fine amount, whichever is less, up to a maximum of 50% from the wages and trust account deposits of a prisoner who owes a restitution fine and requires that this amount, unless prohibited by federal law, be transferred to the California Victim Compensation and Government Claims Board for deposit in the Restitution Fund in the State Treasury. Existing law also requires the director to deduct and retain from a prisoner's wages and trust account deposits, and authorizes the director to deduct and retain from any moneys collected from a parolee, an administrative fee that totals 10% of the amount transferred to the board pursuant to specified restitution and restitution fine provisions, unless prohibited by federal law.

This bill would decrease the maximum deduction for restitution and restitution fine purposes from a prisoner's wages and trust account deposits to 30%, would provide that, until July 1, 2008, the



administrative fee on these restitution payments by prisoners or parolees may be up to 10%, and would set that administrative fee thereafter at 5% for prisoners and 10% for parolees.

Existing law provides that the Director of Corrections may retain any excess funds from these deductions for future reimbursement of the department's administrative and support costs for the restitution program or may transfer all or part of the excess funds for deposit in the Restitution Fund.

This bill would repeal that authority.

(7) This bill would also require the Department of Corrections, commencing with the 2004–05 budget, to include in the Governor's budget a display of revenue and expenditures for these administrative fees, and would indicate, commencing with the 2004–05 fiscal year, that the fees may be expended only upon appropriation.

(8) The Restitution Fund is continuously appropriated to the Victim Compensation and Government Claims Board for the purpose of indemnifying victims of crime.

This bill would make an appropriation by increasing the fees deposited in the Restitution Fund that are subject to continuous appropriation.

(9) The bill would require the Administrative Office of the Courts to establish a workgroup composed of a specified membership to review the current policies and processes by which criminal fines and penalties are imposed by the courts. The bill would require the workgroup to report its findings and recommendations to the Legislature no later than February 1, 2004.

(10) *This bill would incorporate additional changes in Sections 1202.4 and 2085.5 of the Penal Code as proposed by SB 631, contingent on the prior enactment of that bill.*

(11) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 13903 of the Government Code is
- 2 amended to read:
- 3 13903. The Secretary of the State and Consumer Services
- 4 Agency shall serve as chair of the board.



SEC. 2. Section 13957 of the Government Code is amended to read:

13957. (a) The board may grant for pecuniary loss, when the board determines it will best aid the person seeking compensation, as follows:

(1) Subject to the limitations set forth in Section 13957.2, reimburse the amount of medical or medical-related expenses incurred by the victim, including, but not limited to, eyeglasses, hearing aids, dentures, or any prosthetic device taken, lost, or destroyed during the commission of the crime, or the use of which became necessary as a direct result of the crime.

(2) Subject to the limitations set forth in Section 13957.2, reimburse the amount of outpatient psychiatric, psychological, or other mental health counseling related expenses incurred by the victim or derivative victim, including peer counseling services provided by a rape crisis center as defined by Section 13837 of the Penal Code, and including family psychiatric, psychological, or mental health counseling for the successful treatment of the victim provided to family members of the victim in the presence of the victim, whether or not the family member relationship existed at the time of the crime, that became necessary as a direct result of the crime, subject to the following conditions:

(A) The following persons may be reimbursed for the expense of their outpatient mental health counseling in an amount not to exceed ten thousand dollars (\$10,000):

(i) A victim.

(ii) A derivative victim who is the surviving parent, sibling, child, spouse, fiancé, or fiancée of a victim of a crime that directly resulted in the death of the victim.

(iii) A derivative victim, as described in paragraphs (1) to (4), inclusive, of subdivision (c) of Section 13955, who is the primary caretaker of a minor victim whose claim is not denied or reduced pursuant to Section 13956 in a total amount not to exceed ten thousand dollars (\$10,000) for not more than two derivative victims.

(B) The following persons may be reimbursed for the expense of their outpatient mental health counseling in an amount not to exceed three thousand dollars (\$3,000):

(i) A derivative victim not eligible for reimbursement pursuant to subparagraph (A), provided that mental health counseling of a

1 derivative victim described in paragraph (5) of subdivision (c) of
2 Section 13955, shall be reimbursed only if that counseling is
3 necessary for the treatment of the victim.

4 (ii) A victim of a crime of unlawful sexual intercourse with a
5 minor committed in violation of subdivision (d) of Section 261.5
6 of the Penal Code. A derivative victim of a crime committed in
7 violation of subdivision (d) of Section 261.5 of the Penal Code
8 shall not be eligible for reimbursement of mental health
9 counseling expenses. The total award to or on behalf of a victim
10 of a crime committed in violation of subdivision (d) of Section
11 261.5 of the Penal Code may not exceed three thousand dollars
12 (\$3,000) for mental health counseling expenses only.

13 (C) The board may reimburse a victim or derivative victim for
14 outpatient mental health counseling in excess of that authorized by
15 subparagraphs (A) or (B) or for inpatient psychiatric,
16 psychological, or other mental health counseling if the claim is
17 based on dire or exceptional circumstances that require more
18 extensive treatment, as approved by the board.

19 (D) Expenses for psychiatric, psychological, or other mental
20 health counseling related services may be reimbursed only if the
21 services were provided by either of the following individuals:

22 (i) A person who would have been authorized to provide those
23 services pursuant to the provisions of former Article 1
24 (commencing with Section 13959) as it read on January 1, 2002.

25 (ii) A person who is licensed by the state to provide those
26 services, or who is properly supervised by a person who is so
27 licensed, subject to the board's approval and subject to the
28 limitations and restrictions the board may impose.

29 (3) Reimburse the expenses of nonmedical remedial care and
30 treatment rendered in accordance with a religious method of
31 healing recognized by state law.

32 (4) Subject to the limitations set forth in Section 13957.5,
33 authorize compensation equal to the loss of income or loss of
34 support, or both, that a victim or derivative victim incurs as a direct
35 result of the victim's or derivative victim's injury or the victim's
36 death. If the victim or derivative victim requests that the board give
37 priority to reimbursement of loss of income or support, the board
38 may not pay medical expenses, or mental health counseling
39 expenses, except upon the request of the victim or derivative
40 victim or after determining that payment of these expenses will not

1 decrease the funds available for payment of loss of income or
2 support.

3 (5) Authorize a cash payment to or on behalf of the victim for
4 job retraining or similar employment-oriented services.

5 (6) Reimburse the expense for installing or increasing
6 residential security, not to exceed one thousand dollars (\$1,000),
7 with respect to a crime that occurred in the victim's residence,
8 upon verification by law enforcement to be necessary for the
9 personal safety of the victim or by a mental health treatment
10 provider to be necessary for the emotional well-being of the
11 victim. Installing or increasing residential security may include,
12 but need not be limited to, both of the following:

13 (A) Home security device or system.

14 (B) Replacing or increasing the number of locks.

15 (7) Reimburse the expense of renovating or retrofitting a
16 victim's residence or a vehicle, or both, to make the residence, the
17 vehicle, or both, accessible or the vehicle operational by a victim
18 upon verification that the expense is medically necessary for a
19 victim who is permanently disabled as a direct result of the crime,
20 whether the disability is partial or total.

21 (8) Authorize a cash payment or reimbursement not to exceed
22 two thousand dollars (\$2,000) per household for expenses
23 incurred in relocating, if the expenses are determined by law
24 enforcement to be necessary for the personal safety of the victim
25 or by a mental health treatment provider to be necessary for the
26 emotional well-being of the victim. When a relocation payment or
27 reimbursement is provided to a victim of sexual assault or
28 domestic violence and the identity of the offender is known to the
29 victim, the victim shall agree not to inform the offender of the
30 location of the victim's new residence and not to allow the offender
31 on the premises at any time, or shall agree to seek a restraining
32 order against the offender. The cash payment or reimbursement
33 made under this subdivision shall only be awarded once to any
34 victim or household, except that the board may, under compelling
35 circumstances, award a second cash payment or reimbursement to
36 the same victim or household if both of the following conditions
37 are met:

38 (A) The crime occurs more than three years from the date of the
39 crime giving rise to the initial relocation cash payment or
40 reimbursement.

1 (B) The crime does not involve the same offender.

2 (9) When a victim dies as a result of a crime, the board may
3 reimburse any individual who voluntarily, and without
4 anticipation of personal gain, pays or assumes the obligation to pay
5 any of the following expenses:

6 (A) The medical expenses incurred as a direct result of the
7 crime in an amount not to exceed the rates or limitations
8 established by the board.

9 (B) When the crime occurs in a residence, the reasonable costs
10 to clean the scene of the crime in an amount not to exceed one
11 thousand dollars (\$1,000). Services reimbursed pursuant to this
12 subdivision shall be performed by persons registered with the State
13 Department of Health Services as trauma scene waste practitioners
14 in accordance with Chapter 9.5 (commencing with Section
15 118321) of Part 14 of Division 104 of the Health and Safety Code.

16 (C) The funeral and burial expenses incurred as a direct result
17 of the crime, not to exceed seven thousand five hundred dollars
18 (\$7,500).

19 (b) (1) Except as otherwise provided in paragraph (2), the total
20 aggregate award to a victim and all derivative victims sustaining
21 a loss as a result of the crime against that victim may not exceed
22 thirty-five thousand dollars (\$35,000), except that this amount
23 may be increased to seventy thousand dollars (\$70,000) if federal
24 funds for that increase are available.

25 (2) Subject to the limitations in Section 13957.5, but
26 notwithstanding paragraph (1) of this section, a victim
27 permanently disabled as a direct result of a crime shall be
28 individually eligible for an award in the amount limited as
29 provided in paragraph (1), and a separate limit of seventy thousand
30 dollars (\$70,000) shall apply to the aggregate losses of all
31 derivative victims that result from the crime against that
32 permanently disabled victim.

33 (c) This section shall remain in effect only until January 1,
34 2007, and as of that date is repealed, unless a later enacted statute,
35 that is enacted before January 1, 2007, deletes or extends that date.

36 SEC. 3. Section 13957 is added to the Government Code, to
37 read:

38 13957. (a) The board may grant for pecuniary loss, when the
39 board determines it will best aid the person seeking compensation,
40 as follows:

(1) Subject to the limitations set forth in Section 13957.2, reimburse the amount of medical or medical-related expenses incurred by the victim, including, but not limited to, eyeglasses, hearing aids, dentures, or any prosthetic device taken, lost, or destroyed during the commission of the crime, or the use of which became necessary as a direct result of the crime.

(2) Subject to the limitations set forth in Section 13957.2, reimburse the amount of outpatient psychiatric, psychological, or other mental health counseling related expenses incurred by the victim or derivative victim, including peer counseling services provided by a rape crisis center as defined by Section 13837 of the Penal Code, and including family psychiatric, psychological, or mental health counseling for the successful treatment of the victim provided to family members of the victim in the presence of the victim, whether or not the family member relationship existed at the time of the crime, that became necessary as a direct result of the crime, subject to the following conditions:

(A) The following persons may be reimbursed for the expense of their outpatient mental health counseling in an amount not to exceed ten thousand dollars (\$10,000):

(i) A victim.

(ii) A derivative victim who is the surviving parent, sibling, child, spouse, fiancé, or fiancée of a victim of a crime that directly resulted in the death of the victim.

(iii) A derivative victim, as described in paragraphs (1) to (4), inclusive, of subdivision (c) of Section 13955, who is the primary caretaker of a minor victim whose claim is not denied or reduced pursuant to Section 13956 in a total amount not to exceed ten thousand dollars (\$10,000) for not more than two derivative victims.

(B) The following persons may be reimbursed for the expense of their outpatient mental health counseling in an amount not to exceed three thousand dollars (\$3,000):

(i) A derivative victim not eligible for reimbursement pursuant to subparagraph (A), provided that mental health counseling of a derivative victim described in paragraph (5) of subdivision (c) of Section 13955, shall be reimbursed only if that counseling is necessary for the treatment of the victim.

(ii) A victim of a crime of unlawful sexual intercourse with a minor committed in violation of subdivision (d) of Section 261.5

1 of the Penal Code. A derivative victim of a crime committed in
2 violation of subdivision (d) of Section 261.5 of the Penal Code
3 shall not be eligible for reimbursement of mental health
4 counseling expenses. The total award to or on behalf of a victim
5 of a crime committed in violation of subdivision (d) of Section
6 261.5 of the Penal Code may not exceed three thousand dollars
7 (\$3,000) for mental health counseling expenses only.

8 (C) The board may reimburse a victim or derivative victim for
9 outpatient mental health counseling in excess of that authorized by
10 subparagraphs (A) or (B) or for inpatient psychiatric,
11 psychological, or other mental health counseling if the claim is
12 based on dire or exceptional circumstances that require more
13 extensive treatment, as approved by the board.

14 (D) Expenses for psychiatric, psychological, or other mental
15 health counseling related services may be reimbursed only if the
16 services were provided by either of the following individuals:

17 (i) A person who would have been authorized to provide those
18 services pursuant to the provisions of former Article 1
19 (commencing with Section 13959) as it read on January 1, 2002.

20 (ii) A person who is licensed by the state to provide those
21 services, or who is properly supervised by a person who is so
22 licensed, subject to the board's approval and subject to the
23 limitations and restrictions the board may impose.

24 (3) Reimburse the expenses of nonmedical remedial care and
25 treatment rendered in accordance with a religious method of
26 healing recognized by state law.

27 (4) Subject to the limitations set forth in Section 13957.5,
28 authorize compensation equal to the loss of income or loss of
29 support, or both, that a victim or derivative victim incurs as a direct
30 result of the victim's or derivative victim's injury or the victim's
31 death. If the victim or derivative victim requests that the board give
32 priority to reimbursement of loss of income or support, the board
33 may not pay medical expenses, or mental health counseling
34 expenses, except upon the request of the victim or derivative
35 victim or after determining that payment of these expenses will not
36 decrease the funds available for payment of loss of income or
37 support.

38 (5) Authorize a cash payment to or on behalf of the victim for
39 job retraining or similar employment-oriented services.



(6) Reimburse the expense for installing or increasing residential security, not to exceed one thousand dollars (\$1,000), with respect to a crime that occurred in the victim's residence, upon verification by law enforcement to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of the victim. Installing or increasing residential security may include, but need not be limited to, both of the following:

(A) Home security device or system.

(B) Replacing or increasing the number of locks.

(7) Reimburse the expense of renovating or retrofitting a victim's residence or a vehicle, or both, to make the residence, the vehicle, or both, accessible or the vehicle operational by a victim upon verification that the expense is medically necessary for a victim who is permanently disabled as a direct result of the crime, whether the disability is partial or total.

(8) Authorize a cash payment or reimbursement not to exceed two thousand dollars (\$2,000) to a victim for expenses incurred in relocating, if the expenses are determined by law enforcement to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of the victim. When a relocation payment or reimbursement is provided to a victim of sexual assault or domestic violence and the identity of the offender is known to the victim, the victim shall agree not to inform the offender of the location of the victim's new residence and not to allow the offender on the premises at any time, or shall agree to seek a restraining order against the offender. The cash payment or reimbursement made under this subdivision shall only be awarded once to any victim, except that the board may, under compelling circumstances, award a second cash payment or reimbursement to the same victim if both of the following conditions are met:

(A) The crime occurs more than three years from the date of the crime giving rise to the initial relocation cash payment or reimbursement.

(B) The crime does not involve the same offender.

(9) When a victim dies as a result of a crime, the board may reimburse any individual who voluntarily, and without anticipation of personal gain, pays or assumes the obligation to pay any of the following expenses:

1 (A) The medical expenses incurred as a direct result of the
2 crime in an amount not to exceed the rates or limitations
3 established by the board.

4 (B) When the crime occurs in a residence, the reasonable costs
5 to clean the scene of the crime in an amount not to exceed one
6 thousand dollars (\$1,000). Services reimbursed pursuant to this
7 subdivision shall be performed by persons registered with the State
8 Department of Health Services as trauma scene waste practitioners
9 in accordance with Chapter 9.5 (commencing with Section
10 118321) of Part 14 of Division 104 of the Health and Safety Code.

11 (C) The funeral and burial expenses incurred as a direct result
12 of the crime, not to exceed seven thousand five hundred dollars
13 (\$7,500).

14 (b) The total award to or on behalf of each victim or derivative
15 victim may not exceed thirty-five thousand dollars (\$35,000),
16 except that this amount may be increased to seventy thousand
17 dollars (\$70,000) if federal funds for that increase are available.

18 (c) This section shall become operative on January 1, 2007.

19 SEC. 4. Section 13957.7 of the Government Code is amended
20 to read:

21 13957.7. (a) No reimbursement may be made for any
22 expense that is submitted more than three years after it is incurred
23 by the victim or derivative victim. However, reimbursement may
24 be made for an expense submitted more than three years after the
25 date it is incurred if the victim or derivative victim has affirmed the
26 debt and is liable for the debt at the time the expense is submitted
27 for reimbursement, or has paid the expense as a direct result of a
28 crime for which a timely application has been filed.

29 (b) Compensation made pursuant to this chapter may be on a
30 one-time or periodic basis. If periodic, the board may increase,
31 reduce, or terminate the amount of compensation according to the
32 applicant's need, subject to the maximum limits provided in this
33 chapter.

34 (c) (1) The board may authorize direct payment to a provider
35 of services that are reimbursable pursuant to this chapter and may
36 make those payments prior to verification. However, the board
37 may not, without good cause, authorize a direct payment to a
38 provider over the objection of the victim or derivative victim.

39 (2) Reimbursement on the initial claim for any psychological,
40 psychiatric, or mental health counseling services shall, if the

1 application has been approved, be paid by the board within 90 days
2 of the date of receipt of the claim for payment, with subsequent
3 payments to be made to the provider within one month of the
4 receipt of a claim for payment.

5 (d) Payments for peer counseling services provided by a rape
6 crisis center may not exceed fifteen dollars (\$15) for each hour of
7 services provided. Those services shall be limited to in-person
8 counseling for a period not to exceed 10 weeks plus one series of
9 facilitated support group counseling sessions.

10 (e) The board shall develop procedures to ensure that a victim
11 is using compensation for job retraining or relocation only for its
12 intended purposes. The procedures may include, but need not be
13 limited to, requiring copies of receipts, agreements, or other
14 documents as requested, or developing a method for direct
15 payment.

16 (f) Compensation granted pursuant to this chapter shall not
17 disqualify an otherwise eligible applicant from participation in any
18 other public assistance program.

19 (g) (1) The board shall pay attorney's fees to an attorney who
20 represents an applicant who receives compensation greater than
21 that recommended by staff after his or her application for
22 compensation has been recommended for denial in whole or part
23 by staff pursuant to Section 13959. Attorney's fees shall be paid
24 in an amount representing the reasonable value of legal services
25 rendered to the applicant.

26 (2) Under no circumstances shall attorney's fees paid pursuant
27 to this section exceed 10 percent of the amount of the
28 compensation, or five hundred dollars (\$500), whichever is less,
29 for each victim and each derivative victim whose application for
30 compensation was originally recommended for denial in whole or
31 part.

32 (3) An attorney receiving fees from another source shall waive
33 any right to receive attorney's fees from the board under this
34 subdivision.

35 (4) Payments under this subdivision shall be in addition to any
36 amount authorized or ordered under subdivision (b) of Section
37 13960. An attorney may not charge, demand, receive, or collect
38 any amount for services rendered in connection with any
39 proceedings under this chapter except as awarded under this
40 chapter.

(h) A private nonprofit agency shall be reimbursed for its services at the level of the normal and customary fee charged by the private nonprofit agency to clients with adequate means of payment for its services, except that this reimbursement may not exceed the maximum reimbursement rates set by the board and may be made only to the extent that the victim otherwise qualifies for compensation under this chapter and that other reimbursement or direct subsidies are not available to serve the victim.

SEC. 5. Section 13964.5 is added to the Government Code, to read:

13964.5. (a) In January of each year, the board shall determine whether sufficient funds will be available in the following fiscal year to pay all payments authorized pursuant to this chapter. If the board determines that there will be insufficient funds available to pay all authorized payments, the board shall determine the percentage necessary to reduce awards and payments so that the total amount of payments made pursuant to this chapter does not exceed the amount of money available. The board shall in the following fiscal year reduce all payments by the percentage determined necessary.

(b) Payments made in a reduced amount pursuant to this section shall be payment in full of the authorized reimbursement. A provider who accepts a payment made pursuant to this section shall accept that payment as payment-in-full and may not accept additional amounts for that service from the recipient of the service.

(c) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.

SEC. 6. Section 1001.90 of the Penal Code is amended to read:

1001.90. (a) For all persons charged with a felony or misdemeanor whose case is diverted by the court pursuant to this title, the court shall impose on the defendant a diversion restitution fee in addition to any other administrative fee provided or imposed under the law. This fee shall not be imposed upon persons whose case is diverted by the court pursuant to Chapter 2.8 (commencing with Section 1001.20).

(b) The diversion restitution fee imposed pursuant to this section shall be set at the discretion of the court and shall be

1 commensurate with the seriousness of the offense, but shall not be
2 less than two hundred dollars (\$200) nor more than one thousand
3 dollars (\$1,000) for a misdemeanor, and not less than three
4 hundred dollars (\$300) nor more than ten thousand dollars
5 (\$10,000) for a felony.

6 (c) The diversion restitution fee shall be ordered regardless of
7 the defendant's present ability to pay. However, if the court finds
8 that there are compelling and extraordinary reasons, the court may
9 waive imposition of the fee. When the waiver is granted, the court
10 shall state on the record all reasons supporting the waiver. Except
11 as provided in this subdivision, the court shall impose the separate
12 and additional diversion restitution fee required by this section.

13 (d) In setting the amount of the diversion restitution fee in
14 excess of the minimums specified in subdivision (b) of this section,
15 the court shall consider any relevant factors, including, but not
16 limited to, the defendant's ability to pay, the seriousness and
17 gravity of the offense and the circumstances of its commission, any
18 economic gain derived by the defendant as a result of the crime,
19 and the extent to which any other person suffered any losses as a
20 result of the crime. Those losses may include pecuniary losses to
21 the victim or his or her dependents as well as intangible losses,
22 such as psychological harm caused by the crime. Consideration of
23 a defendant's ability to pay may include his or her future earning
24 capacity. A defendant shall bear the burden of demonstrating the
25 lack of his or her ability to pay. Express findings by the court as
26 to the factors bearing on the amount of the fee shall not be required.
27 A separate hearing for the diversion restitution fee shall not be
28 required.

29 (e) The court shall not limit the ability of the state to enforce the
30 fee imposed by this section in the manner of a judgment in a civil
31 action. The court shall not modify the amount of this fee except to
32 correct an error in the setting of the amount of the fee imposed.

33 (f) The fee imposed pursuant to this section shall be
34 immediately deposited in the Restitution Fund for use pursuant to
35 Section 13964 of the Government Code.

36 (g) The board of supervisors of any county may impose a fee
37 at its discretion to cover the actual administrative costs of
38 collection of the restitution fee, not to exceed 10 percent of the
39 amount ordered to be paid. Any fee imposed pursuant to this
40 subdivision shall be deposited in the general fund of the county.

1 (h) The state shall pay the county agency responsible for
2 collecting the diversion restitution fee owed to the Restitution
3 Fund under this section, 10 percent of the funds so owed and
4 collected by the county agency and deposited in the Restitution
5 Fund. This payment shall be made only when the funds are
6 deposited in the Restitution Fund within 45 days of the end of the
7 month in which the funds are collected. Receiving 10 percent of
8 the moneys collected as being owed to the Restitution Fund shall
9 be considered an incentive for collection efforts and shall be used
10 for furthering these collection efforts. The 10 percent rebates shall
11 be used to augment the budgets for the county agencies responsible
12 for collection of funds owed to the Restitution Fund as provided
13 in this section. The 10 percent rebates shall not be used to supplant
14 county funding.

15 (i) As used in this section, “diversion” also means deferred
16 entry of judgment pursuant to Chapter 2.5 (commencing with
17 Section 1000).

18 (j) This section shall remain in effect only until January 1,
19 2007, and as of that date is repealed, unless a later enacted statute,
20 that is enacted before January 1, 2007, deletes or extends that date.

21 SEC. 7. Section 1001.90 is added to the Penal Code, to read:

22 1001.90. (a) For all persons charged with a felony or
23 misdemeanor whose case is diverted by the court pursuant to this
24 title, the court shall impose on the defendant a diversion restitution
25 fee in addition to any other administrative fee provided or imposed
26 under the law. This fee shall not be imposed upon persons whose
27 case is diverted by the court pursuant to Chapter 2.8 (commencing
28 with Section 1001.20).

29 (b) The diversion restitution fee imposed pursuant to this
30 section shall be set at the discretion of the court and shall be
31 commensurate with the seriousness of the offense, but shall not be
32 less than one hundred dollars (\$100), and not more than one
33 thousand dollars (\$1,000).

34 (c) The diversion restitution fee shall be ordered regardless of
35 the defendant’s present ability to pay. However, if the court finds
36 that there are compelling and extraordinary reasons, the court may
37 waive imposition of the fee. When the waiver is granted, the court
38 shall state on the record all reasons supporting the waiver. Except
39 as provided in this subdivision, the court shall impose the separate
40 and additional diversion restitution fee required by this section.



1 (d) In setting the amount of the diversion restitution fee in
2 excess of the one hundred dollar (\$100) minimum, the court shall
3 consider any relevant factors, including, but not limited to, the
4 defendant's ability to pay, the seriousness and gravity of the
5 offense and the circumstances of its commission, any economic
6 gain derived by the defendant as a result of the crime, and the
7 extent to which any other person suffered any losses as a result of
8 the crime. Those losses may include pecuniary losses to the victim
9 or his or her dependents as well as intangible losses, such as
10 psychological harm caused by the crime. Consideration of a
11 defendant's ability to pay may include his or her future earning
12 capacity. A defendant shall bear the burden of demonstrating the
13 lack of his or her ability to pay. Express findings by the court as
14 to the factors bearing on the amount of the fee shall not be required.
15 A separate hearing for the diversion restitution fee shall not be
16 required.

17 (e) The court shall not limit the ability of the state to enforce the
18 fee imposed by this section in the manner of a judgment in a civil
19 action. The court shall not modify the amount of this fee except to
20 correct an error in the setting of the amount of the fee imposed.

21 (f) The fee imposed pursuant to this section shall be
22 immediately deposited in the Restitution Fund for use pursuant to
23 Section 13964 of the Government Code.

24 (g) The board of supervisors of any county may impose a fee
25 at its discretion to cover the actual administrative costs of
26 collection of the restitution fee, not to exceed 10 percent of the
27 amount ordered to be paid. Any fee imposed pursuant to this
28 subdivision shall be deposited in the general fund of the county.

29 (h) The state shall pay the county agency responsible for
30 collecting the diversion restitution fee owed to the Restitution
31 Fund under this section, 10 percent of the funds so owed and
32 collected by the county agency and deposited in the Restitution
33 Fund. This payment shall be made only when the funds are
34 deposited in the Restitution Fund within 45 days of the end of the
35 month in which the funds are collected. Receiving 10 percent of
36 the moneys collected as being owed to the Restitution Fund shall
37 be considered an incentive for collection efforts and shall be used
38 for furthering these collection efforts. The 10 percent rebates shall
39 be used to augment the budgets for the county agencies responsible
40 for collection of funds owed to the Restitution Fund as provided

1 in this section. The 10 percent rebates shall not be used to supplant
2 county funding.

3 (i) As used in this section, “diversion” also means deferred
4 entry of judgment pursuant to Chapter 2.5 (commencing with
5 Section 1000).

6 (j) This section shall become operative on January 1, 2007.

7 SEC. 8. Section 1202.4 of the Penal Code is amended to read:

8 1202.4. (a) (1) It is the intent of the Legislature that a victim
9 of crime who incurs any economic loss as a result of the
10 commission of a crime shall receive restitution directly from any
11 defendant convicted of that crime.

12 (2) Upon a person being convicted of any crime in the State of
13 California, the court shall order the defendant to pay a fine in the
14 form of a penalty assessment in accordance with Section 1464.

15 (3) The court, in addition to any other penalty provided or
16 imposed under the law, shall order the defendant to pay both of the
17 following:

18 (A) A restitution fine in accordance with subdivision (b).

19 (B) Restitution to the victim or victims, if any, in accordance
20 with subdivision (f), which shall be enforceable as if the order
21 were a civil judgment.

22 (b) In every case where a person is convicted of a crime, the
23 court shall impose a separate and additional restitution fine, unless
24 it finds compelling and extraordinary reasons for not doing so, and
25 states those reasons on the record.

26 (1) The restitution fine shall be set at the discretion of the court
27 and commensurate with the seriousness of the offense, but shall
28 not be less than three hundred dollars (\$300), and not more than
29 ten thousand dollars (\$10,000), if the person is convicted of a
30 felony, and shall not be less than two hundred dollars (\$200), and
31 not more than one thousand dollars (\$1,000), if the person is
32 convicted of a misdemeanor.

33 (2) In setting a felony restitution fine, the court may determine
34 the amount of the fine as the product of three hundred dollars
35 (\$300) multiplied by the number of years of imprisonment the
36 defendant is ordered to serve, multiplied by the number of felony
37 counts of which the defendant is convicted.

38 (c) The court shall impose the restitution fine unless it finds
39 compelling and extraordinary reasons for not doing so, and states
40 those reasons on the record. A defendant’s inability to pay shall not

be considered a compelling and extraordinary reason not to impose a restitution fine. Inability to pay may be considered only in increasing the amount of the restitution fine in excess of the three hundred dollar (\$300) or two hundred dollar (\$200) minimum.

(d) In setting the amount of the fine pursuant to subdivision (b) in excess of the three hundred dollar (\$300) or two hundred dollar (\$200) minimum, the court shall consider any relevant factors including, but not limited to, the defendant's inability to pay, the seriousness and gravity of the offense and the circumstances of its commission, any economic gain derived by the defendant as a result of the crime, the extent to which any other person suffered any losses as a result of the crime, and the number of victims involved in the crime. Those losses may include pecuniary losses to the victim or his or her dependents as well as intangible losses, such as psychological harm caused by the crime. Consideration of a defendant's inability to pay may include his or her future earning capacity. A defendant shall bear the burden of demonstrating his or her inability to pay. Express findings by the court as to the factors bearing on the amount of the fine shall not be required. A separate hearing for the fine shall not be required.

(e) The restitution fine shall not be subject to penalty assessments as provided in Section 1464, and shall be deposited in the Restitution Fund in the State Treasury.

(f) In every case in which a victim has suffered economic loss as a result of the defendant's conduct, the court shall require that the defendant make restitution to the victim or victims in an amount established by court order, based on the amount of loss claimed by the victim or victims or any other showing to the court. If the amount of loss cannot be ascertained at the time of sentencing, the restitution order shall include a provision that the amount shall be determined at the direction of the court. The court shall order full restitution unless it finds compelling and extraordinary reasons for not doing so, and states them on the record.

(1) The defendant has the right to a hearing before a judge to dispute the determination of the amount of restitution. The court may modify the amount, on its own motion or on the motion of the district attorney, the victim or victims, or the defendant. If a motion is made for modification of a restitution order, the victim

1 shall be notified of that motion at least 10 days prior to the
2 proceeding held to decide the motion.

3 (2) Determination of the amount of restitution ordered
4 pursuant to this subdivision shall not be affected by the
5 indemnification or subrogation rights of any third party.
6 Restitution ordered pursuant to this subdivision shall be ordered
7 to be deposited to the Restitution Fund to the extent that the victim,
8 as defined in subdivision (k), has received assistance from the
9 Victim Compensation Program pursuant to Chapter 5
10 (commencing with Section 13950) of Part 4 of Division 3 of Title
11 2 of the Government Code.

12 (3) To the extent possible, the restitution order shall be
13 prepared by the sentencing court, shall identify each victim and
14 each loss to which it pertains, and shall be of a dollar amount that
15 is sufficient to fully reimburse the victim or victims for every
16 determined economic loss incurred as the result of the defendant's
17 criminal conduct, including, but not limited to, all of the
18 following:

19 (A) Full or partial payment for the value of stolen or damaged
20 property. The value of stolen or damaged property shall be the
21 replacement cost of like property, or the actual cost of repairing the
22 property when repair is possible.

23 (B) Medical expenses.

24 (C) Mental health counseling expenses.

25 (D) Wages or profits lost due to injury incurred by the victim,
26 and if the victim is a minor, wages or profits lost by the minor's
27 parent, parents, guardian, or guardians, while caring for the
28 injured minor. Lost wages shall include any commission income
29 as well as any base wages. Commission income shall be
30 established by evidence of commission income during the
31 12-month period prior to the date of the crime for which restitution
32 is being ordered, unless good cause for a shorter time period is
33 shown.

34 (E) Wages or profits lost by the victim, and if the victim is a
35 minor, wages or profits lost by the minor's parent, parents,
36 guardian, or guardians, due to time spent as a witness or in assisting
37 the police or prosecution. Lost wages shall include any
38 commission income as well as any base wages. Commission
39 income shall be established by evidence of commission income
40 during the 12-month period prior to the date of the crime for which

1 restitution is being ordered, unless good cause for a shorter time
2 period is shown.

3 (F) Noneconomic losses, including, but not limited to,
4 psychological harm, for felony violations of Section 288.

5 (G) Interest, at the rate of 10 percent per annum, that accrues
6 as of the date of sentencing or loss, as determined by the court.

7 (H) Actual and reasonable attorney's fees and other costs of
8 collection accrued by a private entity on behalf of the victim.

9 (I) Expenses incurred by an adult victim in relocating away
10 from the defendant, including, but not limited to, deposits for
11 utilities and telephone service, deposits for rental housing,
12 temporary lodging and food expenses, clothing, and personal
13 items. Expenses incurred pursuant to this section shall be verified
14 by law enforcement to be necessary for the personal safety of the
15 victim or by a mental health treatment provider to be necessary for
16 the emotional well-being of the victim.

17 (J) Expenses to install or increase residential security incurred
18 related to a crime, as defined in subdivision (c) of Section 667.5,
19 including, but not limited to, a home security device or system, or
20 replacing or increasing the number of locks.

21 (K) Expenses to retrofit a residence or vehicle, or both, to make
22 the residence accessible to or the vehicle operational by the victim,
23 if the victim is permanently disabled, whether the disability is
24 partial or total, as a direct result of the crime.

25 (4) (A) If, as a result of the defendant's conduct, the
26 Restitution Fund has provided assistance to or on behalf of a victim
27 or derivative victim pursuant to Chapter 5 (commencing with
28 Section 13950) of Part 4 of Division 3 of Title 2 of the Government
29 Code, the amount of assistance provided shall be presumed to be
30 a direct result of the defendant's criminal conduct and shall be
31 included in the amount of the restitution ordered.

32 (B) The amount of assistance provided by the Restitution Fund
33 shall be established by copies of bills submitted to the California
34 Victim Compensation and Government Claims Board reflecting
35 the amount paid by the board and whether the services for which
36 payment was made were for medical or dental expenses, funeral
37 or burial expenses, mental health counseling, wage or support
38 losses, or rehabilitation. Certified copies of these bills provided by
39 the board and redacted to protect the privacy and safety of the
40 victim or any legal privilege, together with a statement made under

1 penalty of perjury by the custodian of records that those bills were
2 submitted to and were paid by the ~~California~~ board, shall be
3 sufficient to meet this requirement.

4 (C) If the defendant offers evidence to rebut the presumption
5 established by this paragraph, the court may release additional
6 information contained in the records of the board to the defendant
7 only after reviewing that information in camera and finding that
8 the information is necessary for the defendant to dispute the
9 amount of the restitution order.

10 (5) Except as provided in paragraph (6), in any case in which
11 an order may be entered pursuant to this subdivision, the defendant
12 shall prepare and file a disclosure identifying all assets, income,
13 and liabilities in which the defendant held or controlled a present
14 or future interest as of the date of the defendant's arrest for the
15 crime for which restitution may be ordered. This disclosure shall
16 be available to the victim pursuant to Section 1214, and any use the
17 court may make of the disclosure shall be subject to the restrictions
18 of subdivision (g). The disclosure shall be signed by the defendant
19 upon a form approved or adopted by the Judicial Council for the
20 purpose of facilitating the disclosure. Any defendant who willfully
21 states as true any material matter that he or she knows to be false
22 on the disclosure required by this subdivision is guilty of a
23 misdemeanor, unless this conduct is punishable as perjury or
24 another provision of law provides for a greater penalty.

25 (6) A defendant who fails to file the financial disclosure
26 required in paragraph (5), but who has filed a financial affidavit or
27 financial information pursuant to subdivision (c) of Section 987,
28 shall be deemed to have waived the confidentiality of that affidavit
29 or financial information as to a victim in whose favor the order of
30 restitution is entered pursuant to subdivision (f). The affidavit or
31 information shall serve in lieu of the financial disclosure required
32 in paragraph (5), and paragraphs (7) to (10), inclusive, shall not
33 apply.

34 (7) Except as provided in paragraph (6), the defendant shall file
35 the disclosure with the clerk of the court no later than the date set
36 for the defendant's sentencing, unless otherwise directed by the
37 court. The disclosure may be inspected or copied as provided by
38 subdivision (b), (c), or (d) of Section 1203.05.

39 (8) In its discretion, the court may relieve the defendant of the
40 duty under paragraph (7) of filing with the clerk by requiring that

1 the defendant's disclosure be submitted as an attachment to, and
2 be available to, those authorized to receive the following:

3 (A) Any report submitted pursuant to subparagraph (C) of
4 paragraph (2) of subdivision (b) of Section 1203 or subdivision (g)
5 of Section 1203.

6 (B) Any stipulation submitted pursuant to paragraph (4) of
7 subdivision (b) of Section 1203.

8 (C) Any report by the probation officer, or any information
9 submitted by the defendant applying for a conditional sentence
10 pursuant to subdivision (d) of Section 1203.

11 (9) The court may consider a defendant's unreasonable failure
12 to make a complete disclosure pursuant to paragraph (5) as any of
13 the following:

14 (A) A circumstance in aggravation of the crime in imposing a
15 term under subdivision (b) of Section 1170.

16 (B) A factor indicating that the interests of justice would not be
17 served by admitting the defendant to probation under Section
18 1203.

19 (C) A factor indicating that the interests of justice would not be
20 served by conditionally sentencing the defendant under Section
21 1203.

22 (D) A factor indicating that the interests of justice would not be
23 served by imposing less than the maximum fine and sentence fixed
24 by law for the case.

25 (10) A defendant's failure or refusal to make the required
26 disclosure pursuant to paragraph (5) shall not delay entry of an
27 order of restitution or pronouncement of sentence. In appropriate
28 cases, the court may do any of the following:

29 (A) Require the defendant to be examined by the district
30 attorney pursuant to subdivision (h).

31 (B) If sentencing the defendant under Section 1170, provide
32 that the victim shall receive a copy of the portion of the probation
33 report filed pursuant to Section 1203.10 concerning the
34 defendant's employment, occupation, finances, and liabilities.

35 (C) If sentencing the defendant under Section 1203, set a date
36 and place for submission of the disclosure required by paragraph
37 (5) as a condition of probation or suspended sentence.

38 (g) The court shall order full restitution unless it finds
39 compelling and extraordinary reasons for not doing so, and states
40 those reasons on the record. A defendant's inability to pay shall not

1 be considered a compelling and extraordinary reason not to impose
2 a restitution order, nor shall inability to pay be a consideration in
3 determining the amount of a restitution order.

4 (h) The district attorney may request an order of examination
5 pursuant to the procedures specified in Article 2 (commencing
6 with Section 708.110) of Chapter 6 of Division 2 of Title 9 of Part
7 2 of the Code of Civil Procedure, in order to determine the
8 defendant's financial assets for purposes of collecting on the
9 restitution order.

10 (i) A restitution order imposed pursuant to subdivision (f) shall
11 be enforceable as if the order were a civil judgment.

12 (j) The making of a restitution order pursuant to subdivision (f)
13 shall not affect the right of a victim to recovery from the
14 Restitution Fund as otherwise provided by law, except to the extent
15 that restitution is actually collected pursuant to the order.
16 Restitution collected pursuant to this subdivision shall be credited
17 to any other judgments for the same losses obtained against the
18 defendant arising out of the crime for which the defendant was
19 convicted.

20 (k) For purposes of this section, "victim" shall include all of
21 the following:

22 (1) The immediate surviving family of the actual victim.

23 (2) Any corporation, business trust, estate, trust, partnership,
24 association, joint venture, government, governmental
25 subdivision, agency, or instrumentality, or any other legal or
26 commercial entity when that entity is a direct victim of a crime.

27 (3) "Derivative victims" as defined in Section 13951 of the
28 Government Code.

29 (l) At its discretion, the board of supervisors of any county may
30 impose a fee to cover the actual administrative cost of collecting
31 the restitution fine, not to exceed 10 percent of the amount ordered
32 to be paid, to be added to the restitution fine and included in the
33 order of the court, the proceeds of which shall be deposited in the
34 general fund of the county.

35 (m) In every case in which the defendant is granted probation,
36 the court shall make the payment of restitution fines and orders
37 imposed pursuant to this section a condition of probation. Any
38 portion of a restitution order that remains unsatisfied after a
39 defendant is no longer on probation shall continue to be

1 enforceable by a victim pursuant to Section 1214 until the
2 obligation is satisfied.

3 (n) If the court finds and states on the record compelling and
4 extraordinary reasons why a restitution fine or full restitution order
5 should not be required, the court shall order, as a condition of
6 probation, that the defendant perform specified community
7 service, unless it finds and states on the record compelling and
8 extraordinary reasons not to require community service in addition
9 to the finding that restitution should not be required. Upon
10 revocation of probation, the court shall impose restitution pursuant
11 to this section.

12 (o) The provisions of Section 13963 of the Government Code
13 shall apply to restitution imposed pursuant to this section.

14 (p) This section shall remain in effect only until January 1,
15 2007, and as of that date is repealed, unless a later enacted statute,
16 that is enacted before January 1, 2007, deletes or extends that date.

17 *SEC. 8.1. Section 1202.4 of the Penal Code is amended to*
18 *read:*

19 1202.4. (a) (1) It is the intent of the Legislature that a victim
20 of crime who incurs any economic loss as a result of the
21 commission of a crime shall receive restitution directly from any
22 defendant convicted of that crime.

23 (2) Upon a person being convicted of any crime in the State of
24 California, the court shall order the defendant to pay a fine in the
25 form of a penalty assessment in accordance with Section 1464.

26 (3) The court, in addition to any other penalty provided or
27 imposed under the law, shall order the defendant to pay both of the
28 following:

29 (A) A restitution fine in accordance with subdivision (b).

30 (B) Restitution to the victim or victims, if any, in accordance
31 with subdivision (f), which shall be enforceable as if the order
32 were a civil judgment.

33 (b) In every case where a person is convicted of a crime, the
34 court shall impose a separate and additional restitution fine, unless
35 it finds compelling and extraordinary reasons for not doing so, and
36 states those reasons on the record.

37 (1) The restitution fine shall be set at the discretion of the court
38 and commensurate with the seriousness of the offense, but shall
39 not be less than ~~two~~ *three* hundred dollars ~~(\$200)~~ *(\$300)*, and not
40 more than ten thousand dollars (\$10,000), if the person is

1 convicted of a felony, and shall not be less than ~~one~~ *two* hundred
2 dollars ~~(\$100)~~ *(\$200)*, and not more than one thousand dollars
3 (\$1,000), if the person is convicted of a misdemeanor.

4 (2) In setting a felony restitution fine, the court may determine
5 the amount of the fine as the product of ~~two~~ *three* hundred dollars
6 ~~(\$200)~~ *(\$300)* multiplied by the number of years of imprisonment
7 the defendant is ordered to serve, multiplied by the number of
8 felony counts of which the defendant is convicted.

9 (c) The court shall impose the restitution fine unless it finds
10 compelling and extraordinary reasons for not doing so, and states
11 those reasons on the record. A defendant's inability to pay shall not
12 be considered a compelling and extraordinary reason not to impose
13 a restitution fine. Inability to pay may be considered only in
14 increasing the amount of the restitution fine in excess of the
15 ~~two-hundred-dollar (\$200)~~ *three-hundred-dollar (\$300)* or
16 ~~one-hundred-dollar (\$100)~~ *two-hundred-dollar (\$200)* minimum.

17 (d) In setting the amount of the fine pursuant to subdivision (b)
18 in excess of the ~~two-hundred-dollar (\$200)~~ *three-hundred-dollar*
19 *(\$300)* or ~~one-hundred-dollar (\$100)~~ *two-hundred-dollar (\$200)*
20 minimum, the court shall consider any relevant factors including,
21 but not limited to, the defendant's inability to pay, the seriousness
22 and gravity of the offense and the circumstances of its commission,
23 any economic gain derived by the defendant as a result of the
24 crime, the extent to which any other person suffered any losses as
25 a result of the crime, and the number of victims involved in the
26 crime. Those losses may include pecuniary losses to the victim or
27 his or her dependents as well as intangible losses, such as
28 psychological harm caused by the crime. Consideration of a
29 defendant's inability to pay may include his or her future earning
30 capacity. A defendant shall bear the burden of demonstrating his
31 or her inability to pay. Express findings by the court as to the
32 factors bearing on the amount of the fine shall not be required. A
33 separate hearing for the fine shall not be required.

34 (e) The restitution fine shall not be subject to penalty
35 assessments as provided in Section 1464, and shall be deposited in
36 the Restitution Fund in the State Treasury.

37 (f) In every case in which a victim has suffered economic loss
38 as a result of the defendant's conduct, the court shall require that
39 the defendant make restitution to the victim or victims in an
40 amount established by court order, based on the amount of loss

1 claimed by the victim or victims or any other showing to the court.
2 If the amount of loss cannot be ascertained at the time of
3 sentencing, the restitution order shall include a provision that the
4 amount shall be determined at the direction of the court. The court
5 shall order full restitution unless it finds compelling and
6 extraordinary reasons for not doing so, and states them on the
7 record.

8 (1) The defendant has the right to a hearing before a judge to
9 dispute the determination of the amount of restitution. The court
10 may modify the amount, on its own motion or on the motion of the
11 district attorney, the victim or victims, or the defendant. If a
12 motion is made for modification of a restitution order, the victim
13 shall be notified of that motion at least 10 days prior to the
14 proceeding held to decide the motion.

15 (2) Determination of the amount of restitution ordered
16 pursuant to this subdivision shall not be affected by the
17 indemnification or subrogation rights of any third party.
18 Restitution ordered pursuant to this subdivision shall be ordered
19 to be deposited to the Restitution Fund to the extent that the victim,
20 as defined in subdivision (k), has received assistance from the
21 ~~Victims of Crime~~ *Victim Compensation* Program pursuant to
22 ~~Article 1 Chapter 5~~ (commencing with Section 13959) of Chapter
23 ~~5-13950~~ of Part 4 of Division 3 of Title 2 of the Government Code.

24 (3) To the extent possible, the restitution order shall be
25 prepared by the sentencing court, shall identify each victim and
26 each loss to which it pertains, and shall be of a dollar amount that
27 is sufficient to fully reimburse the victim or victims for every
28 determined economic loss incurred as the result of the defendant's
29 criminal conduct, including, but not limited to, all of the
30 following:

31 (A) Full or partial payment for the value of stolen or damaged
32 property. The value of stolen or damaged property shall be the
33 replacement cost of like property, or the actual cost of repairing the
34 property when repair is possible.

35 (B) Medical expenses.

36 (C) Mental health counseling expenses.

37 (D) Wages or profits lost due to injury incurred by the victim,
38 and if the victim is a minor, wages or profits lost by the minor's
39 parent, parents, guardian, or guardians, while caring for the
40 injured minor. Lost wages shall include any commission income

1 as well as any base wages. Commission income shall be
2 established by evidence of commission income during the
3 12-month period prior to the date of the crime for which restitution
4 is being ordered, unless good cause for a shorter time period is
5 shown.

6 (E) Wages or profits lost by the victim, and if the victim is a
7 minor, wages or profits lost by the minor's parent, parents,
8 guardian, or guardians, due to time spent as a witness or in assisting
9 the police or prosecution. Lost wages shall include any
10 commission income as well as any base wages. Commission
11 income shall be established by evidence of commission income
12 during the 12-month period prior to the date of the crime for which
13 restitution is being ordered, unless good cause for a shorter time
14 period is shown.

15 (F) Noneconomic losses, including, but not limited to,
16 psychological harm, for felony violations of Section 288.

17 (G) Interest, at the rate of 10 percent per annum, that accrues
18 as of the date of sentencing or loss, as determined by the court.

19 (H) Actual and reasonable attorney's fees and other costs of
20 collection accrued by a private entity on behalf of the victim.

21 (I) Expenses incurred by an adult victim in relocating away
22 from the defendant, including, but not limited to, deposits for
23 utilities and telephone service, deposits for rental housing,
24 temporary lodging and food expenses, clothing, and personal
25 items. Expenses incurred pursuant to this section shall be verified
26 by law enforcement to be necessary for the personal safety of the
27 victim or by a mental health treatment provider to be necessary for
28 the emotional well-being of the victim.

29 (J) Expenses to install or increase residential security incurred
30 related to a crime, as defined in subdivision (c) of Section 667.5,
31 including, but not limited to, a home security device or system, or
32 replacing or increasing the number of locks.

33 (K) Expenses to retrofit a residence or vehicle, or both, to make
34 the residence accessible to or the vehicle operational by the victim,
35 if the victim is permanently disabled, whether the disability is
36 partial or total, as a direct result of the crime.

37 (4) (A) If, as a result of the defendant's conduct, the
38 Restitution Fund has provided assistance to or on behalf of a victim
39 or derivative victim pursuant to ~~Article 4 Chapter 5~~ (commencing
40 with Section ~~13959~~) of ~~Chapter 5~~ 13950) of Part 4 of Division 3

1 of Title 2 of the Government Code, the amount of assistance
2 provided shall be presumed to be a direct result of the defendant's
3 criminal conduct and shall be included in the amount of the
4 restitution ordered.

5 (B) The amount of assistance provided by the Restitution Fund
6 shall be established by copies of bills submitted to the ~~State Board~~
7 ~~of Control~~ *California Victim Compensation and Government*
8 *Claims Board* reflecting the amount paid by the board and whether
9 the services for which payment was made were for medical or
10 dental expenses, funeral or burial expenses, mental health
11 counseling, wage or support losses, or rehabilitation. Certified
12 copies of these bills provided by the ~~State Board of Control~~ *board*
13 and redacted to protect the privacy and safety of the victim or any
14 legal privilege, together with a statement made under penalty of
15 perjury by the custodian of records that those bills were submitted
16 to and were paid by the ~~State Board of Control~~ *board*, shall be
17 sufficient to meet this requirement.

18 (C) If the defendant offers evidence to rebut the presumption
19 established by this paragraph, the court may release additional
20 information contained in the records of the ~~State Board of Control~~
21 *board* to the defendant only after reviewing that information in
22 camera and finding that the information is necessary for the
23 defendant to dispute the amount of the restitution order.

24 (5) Except as provided in paragraph (6), in any case in which
25 an order may be entered pursuant to this subdivision, the defendant
26 shall prepare and file a disclosure identifying all assets, income,
27 and liabilities in which the defendant held or controlled a present
28 or future interest as of the date of the defendant's arrest for the
29 crime for which restitution may be ordered. ~~This~~ *The financial*
30 *disclosure statements* shall be *made* available to the victim *and the*
31 *board* pursuant to Section 1214, ~~and any use the court may make~~
32 ~~of the disclosure shall be subject to the restrictions of subdivision~~
33 ~~(e)~~. The disclosure shall be signed by the defendant upon a form
34 approved or adopted by the Judicial Council for the purpose of
35 facilitating the disclosure. Any defendant who willfully states as
36 true any material matter that he or she knows to be false on the
37 disclosure required by this subdivision is guilty of a misdemeanor,
38 unless this conduct is punishable as perjury or another provision
39 of law provides for a greater penalty.

(6) A defendant who fails to file the financial disclosure required in paragraph (5), but who has filed a financial affidavit or financial information pursuant to subdivision (c) of Section 987, shall be deemed to have waived the confidentiality of that affidavit or financial information as to a victim in whose favor the order of restitution is entered pursuant to subdivision (f). The affidavit or information shall serve in lieu of the financial disclosure required in paragraph (5), and paragraphs (7) to (10), inclusive, shall not apply.

(7) Except as provided in paragraph (6), the defendant shall file the disclosure with the clerk of the court no later than the date set for the defendant's sentencing, unless otherwise directed by the court. The disclosure may be inspected or copied as provided by subdivision (b), (c), or (d) of Section 1203.05.

(8) In its discretion, the court may relieve the defendant of the duty under paragraph (7) of filing with the clerk by requiring that the defendant's disclosure be submitted as an attachment to, and be available to, those authorized to receive the following:

(A) Any report submitted pursuant to subparagraph (C) of paragraph (2) of subdivision (b) of Section 1203 or subdivision (g) of Section 1203.

(B) Any stipulation submitted pursuant to paragraph (4) of subdivision (b) of Section 1203.

(C) Any report by the probation officer, or any information submitted by the defendant applying for a conditional sentence pursuant to subdivision (d) of Section 1203.

(9) The court may consider a defendant's unreasonable failure to make a complete disclosure pursuant to paragraph (5) as any of the following:

(A) A circumstance in aggravation of the crime in imposing a term under subdivision (b) of Section 1170.

(B) A factor indicating that the interests of justice would not be served by admitting the defendant to probation under Section 1203.

(C) A factor indicating that the interests of justice would not be served by conditionally sentencing the defendant under Section 1203.

(D) A factor indicating that the interests of justice would not be served by imposing less than the maximum fine and sentence fixed by law for the case.

1 (10) A defendant's failure or refusal to make the required
2 disclosure pursuant to paragraph (5) shall not delay entry of an
3 order of restitution or pronouncement of sentence. In appropriate
4 cases, the court may do any of the following:

5 (A) Require the defendant to be examined by the district
6 attorney pursuant to subdivision (h).

7 (B) If sentencing the defendant under Section 1170, provide
8 that the victim shall receive a copy of the portion of the probation
9 report filed pursuant to Section 1203.10 concerning the
10 defendant's employment, occupation, finances, and liabilities.

11 (C) If sentencing the defendant under Section 1203, set a date
12 and place for submission of the disclosure required by paragraph
13 (5) as a condition of probation or suspended sentence.

14 *(11) If a defendant has any remaining unpaid balance on a*
15 *restitution order or fine 120 days prior to his or her scheduled*
16 *release from probation or 120 days prior to his or her completion*
17 *of a conditional sentence, the defendant shall prepare and file a*
18 *new and updated financial disclosure identifying all assets,*
19 *income, and liabilities in which the defendant holds or controls or*
20 *has held or controlled a present or future interest during the*
21 *defendant's period of probation or conditional sentence. The*
22 *financial disclosure shall be made available to the victim and the*
23 *board pursuant to Section 1214. The disclosure shall be signed and*
24 *prepared by the defendant on the same form as described in*
25 *paragraph (5). Any defendant who willfully states as true any*
26 *material matter that he or she knows to be false on the disclosure*
27 *required by this subdivision is guilty of a misdemeanor, unless this*
28 *conduct is punishable as perjury or another provision of law*
29 *provides for a greater penalty. The financial disclosure required by*
30 *this paragraph shall be filed with the clerk of the court no later*
31 *than 90 days prior to the defendant's scheduled release from*
32 *probation or completion of the defendant's conditional sentence.*

33 (g) The court shall order full restitution unless it finds
34 compelling and extraordinary reasons for not doing so, and states
35 those reasons on the record. A defendant's inability to pay shall not
36 be considered a compelling and extraordinary reason not to impose
37 a restitution order, nor shall inability to pay be a consideration in
38 determining the amount of a restitution order.

39 (h) The district attorney may request an order of examination
40 pursuant to the procedures specified in Article 2 (commencing

1 with Section 708.110) of Chapter 6 of Division 2 of Title 9 of Part
2 2 of the Code of Civil Procedure, in order to determine the
3 defendant's financial assets for purposes of collecting on the
4 restitution order.

5 (i) A restitution order imposed pursuant to subdivision (f) shall
6 be enforceable as if the order were a civil judgment.

7 (j) The making of a restitution order pursuant to subdivision (f)
8 shall not affect the right of a victim to recovery from the
9 Restitution Fund as otherwise provided by law, except to the extent
10 that restitution is actually collected pursuant to the order.
11 Restitution collected pursuant to this subdivision shall be credited
12 to any other judgments for the same losses obtained against the
13 defendant arising out of the crime for which the defendant was
14 convicted.

15 (k) For purposes of this section, "victim" shall include all of
16 the following:

17 (1) The immediate surviving family of the actual victim.

18 (2) Any corporation, business trust, estate, trust, partnership,
19 association, joint venture, government, governmental
20 subdivision, agency, or instrumentality, or any other legal or
21 commercial entity when that entity is a direct victim of a crime.

22 (3) ~~"Derivative victims" as defined in Section 13960~~ Any
23 *person who has sustained economic loss as the result of a crime*
24 *and who satisfies any of the following conditions:*

25 (A) *At the time of the crime was the parent, grandparent,*
26 *sibling, spouse, child, or grandchild of the victim.*

27 (B) *At the time of the crime was living in the household of the*
28 *victim.*

29 (C) *At the time of the crime was a person who had previously*
30 *lived in the household of the victim for a period of not less than two*
31 *years in a relationship substantially similar to a relationship listed*
32 *in subparagraph (A).*

33 (D) *Is another family member of the victim, including, but not*
34 *limited to, the victim's fiancée or fiancée, and who witnessed the*
35 *crime.*

36 (E) *Is the primary caretaker of a minor victim.*

37 (4) *Any person who is eligible to receive assistance from the*
38 *Restitution Fund pursuant to Chapter 5 (commencing with Section*
39 *13950) of Part 4 of Division 3 of Title 2 of the Government Code.*

(l) At its discretion, the board of supervisors of any county may impose a fee to cover the actual administrative cost of collecting the restitution fine, not to exceed 10 percent of the amount ordered to be paid, to be added to the restitution fine and included in the order of the court, the proceeds of which shall be deposited in the general fund of the county.

(m) In every case in which the defendant is granted probation, the court shall make the payment of restitution fines and orders imposed pursuant to this section a condition of probation. Any portion of a restitution order that remains unsatisfied after a defendant is no longer on probation shall continue to be enforceable by a victim pursuant to Section 1214 until the obligation is satisfied.

(n) If the court finds and states on the record compelling and extraordinary reasons why a restitution fine or full restitution order should not be required, the court shall order, as a condition of probation, that the defendant perform specified community service, unless it finds and states on the record compelling and extraordinary reasons not to require community service in addition to the finding that restitution should not be required. Upon revocation of probation, the court shall impose restitution pursuant to this section.

(o) The provisions of Section ~~13966.04~~ 13963 of the Government Code shall apply to restitution imposed pursuant to this section.

~~(p) (1) This section shall become operative on January 1, 2000, except when all of the following apply:~~

~~(A) A majority of judges of a court apply to the Judicial Council for an extension:~~

~~(B) The judicial application described in paragraph (1) documents the need for time to adjust restitution procedures and practices, as well as to facilitate judicial education and training in direct restitution to victims under subdivision (f):~~

~~(C) The Judicial Council grants the extension upon finding good cause:~~

~~(2) Upon the grant of an extension pursuant to the application of a court under this subdivision, the provisions of former Section 1214 shall continue to apply with respect to that court. The extension may be for any period of time set by the Judicial Council, but shall not exceed January 1, 2002, in any case. The court clerk~~

1 *shall notify the California Victim Compensation and Government*
2 *Claims Board within 90 days of an order of restitution being*
3 *imposed if the defendant is ordered to pay restitution to the board*
4 *due to the victim receiving compensation from the Restitution*
5 *Fund. Notification shall be accomplished by mailing a copy of the*
6 *court order to the board, which may be done periodically by bulk*
7 *mail or electronic mail.*

8 *(q) This section shall remain in effect only until January 1,*
9 *2007, and as of that date is repealed, unless a later enacted statute,*
10 *that is enacted before January 1, 2007, deletes or extends that date.*

11 SEC. 9. Section 1202.4 is added to the Penal Code, to read:

12 1202.4. (a) (1) It is the intent of the Legislature that a victim
13 of crime who incurs any economic loss as a result of the
14 commission of a crime shall receive restitution directly from any
15 defendant convicted of that crime.

16 (2) Upon a person being convicted of any crime in the State of
17 California, the court shall order the defendant to pay a fine in the
18 form of a penalty assessment in accordance with Section 1464.

19 (3) The court, in addition to any other penalty provided or
20 imposed under the law, shall order the defendant to pay both of the
21 following:

22 (A) A restitution fine in accordance with subdivision (b).

23 (B) Restitution to the victim or victims, if any, in accordance
24 with subdivision (f), which shall be enforceable as if the order
25 were a civil judgment.

26 (b) In every case where a person is convicted of a crime, the
27 court shall impose a separate and additional restitution fine, unless
28 it finds compelling and extraordinary reasons for not doing so, and
29 states those reasons on the record.

30 (1) The restitution fine shall be set at the discretion of the court
31 and commensurate with the seriousness of the offense, but shall
32 not be less than two hundred dollars (\$200), and not more than ten
33 thousand dollars (\$10,000), if the person is convicted of a felony,
34 and shall not be less than one hundred dollars (\$100), and not more
35 than one thousand dollars (\$1,000), if the person is convicted of
36 a misdemeanor.

37 (2) In setting a felony restitution fine, the court may determine
38 the amount of the fine as the product of two hundred dollars (\$200)
39 multiplied by the number of years of imprisonment the defendant

1 is ordered to serve, multiplied by the number of felony counts of
2 which the defendant is convicted.

3 (c) The court shall impose the restitution fine unless it finds
4 compelling and extraordinary reasons for not doing so, and states
5 those reasons on the record. A defendant's inability to pay shall not
6 be considered a compelling and extraordinary reason not to impose
7 a restitution fine. Inability to pay may be considered only in
8 increasing the amount of the restitution fine in excess of the two
9 hundred dollar (\$200) or one hundred dollar (\$100) minimum.

10 (d) In setting the amount of the fine pursuant to subdivision (b)
11 in excess of the two hundred dollar (\$200) or one hundred dollar
12 (\$100) minimum, the court shall consider any relevant factors
13 including, but not limited to, the defendant's inability to pay, the
14 seriousness and gravity of the offense and the circumstances of its
15 commission, any economic gain derived by the defendant as a
16 result of the crime, the extent to which any other person suffered
17 any losses as a result of the crime, and the number of victims
18 involved in the crime. Those losses may include pecuniary losses
19 to the victim or his or her dependents as well as intangible losses,
20 such as psychological harm caused by the crime. Consideration of
21 a defendant's inability to pay may include his or her future earning
22 capacity. A defendant shall bear the burden of demonstrating his
23 or her inability to pay. Express findings by the court as to the
24 factors bearing on the amount of the fine shall not be required. A
25 separate hearing for the fine shall not be required.

26 (e) The restitution fine shall not be subject to penalty
27 assessments as provided in Section 1464, and shall be deposited in
28 the Restitution Fund in the State Treasury.

29 (f) In every case in which a victim has suffered economic loss
30 as a result of the defendant's conduct, the court shall require that
31 the defendant make restitution to the victim or victims in an
32 amount established by court order, based on the amount of loss
33 claimed by the victim or victims or any other showing to the court.
34 If the amount of loss cannot be ascertained at the time of
35 sentencing, the restitution order shall include a provision that the
36 amount shall be determined at the direction of the court. The court
37 shall order full restitution unless it finds compelling and
38 extraordinary reasons for not doing so, and states them on the
39 record.

(1) The defendant has the right to a hearing before a judge to dispute the determination of the amount of restitution. The court may modify the amount, on its own motion or on the motion of the district attorney, the victim or victims, or the defendant. If a motion is made for modification of a restitution order, the victim shall be notified of that motion at least 10 days prior to the proceeding held to decide the motion.

(2) Determination of the amount of restitution ordered pursuant to this subdivision shall not be affected by the indemnification or subrogation rights of any third party. Restitution ordered pursuant to this subdivision shall be ordered to be deposited to the Restitution Fund to the extent that the victim, as defined in subdivision (k), has received assistance from the Victim Compensation Program pursuant to Chapter 5 (commencing with Section 13950) of Part 4 of Division 3 of Title 2 of the Government Code.

(3) To the extent possible, the restitution order shall be prepared by the sentencing court, shall identify each victim and each loss to which it pertains, and shall be of a dollar amount that is sufficient to fully reimburse the victim or victims for every determined economic loss incurred as the result of the defendant's criminal conduct, including, but not limited to, all of the following:

(A) Full or partial payment for the value of stolen or damaged property. The value of stolen or damaged property shall be the replacement cost of like property, or the actual cost of repairing the property when repair is possible.

(B) Medical expenses.

(C) Mental health counseling expenses.

(D) Wages or profits lost due to injury incurred by the victim, and if the victim is a minor, wages or profits lost by the minor's parent, parents, guardian, or guardians, while caring for the injured minor. Lost wages shall include any commission income as well as any base wages. Commission income shall be established by evidence of commission income during the 12-month period prior to the date of the crime for which restitution is being ordered, unless good cause for a shorter time period is shown.

(E) Wages or profits lost by the victim, and if the victim is a minor, wages or profits lost by the minor's parent, parents,

guardian, or guardians, due to time spent as a witness or in assisting the police or prosecution. Lost wages shall include any commission income as well as any base wages. Commission income shall be established by evidence of commission income during the 12-month period prior to the date of the crime for which restitution is being ordered, unless good cause for a shorter time period is shown.

(F) Noneconomic losses, including, but not limited to, psychological harm, for felony violations of Section 288.

(G) Interest, at the rate of 10 percent per annum, that accrues as of the date of sentencing or loss, as determined by the court.

(H) Actual and reasonable attorney's fees and other costs of collection accrued by a private entity on behalf of the victim.

(I) Expenses incurred by an adult victim in relocating away from the defendant, including, but not limited to, deposits for utilities and telephone service, deposits for rental housing, temporary lodging and food expenses, clothing, and personal items. Expenses incurred pursuant to this section shall be verified by law enforcement to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of the victim.

(J) Expenses to install or increase residential security incurred related to a crime, as defined in subdivision (c) of Section 667.5, including, but not limited to, a home security device or system, or replacing or increasing the number of locks.

(K) Expenses to retrofit a residence or vehicle, or both, to make the residence accessible to or the vehicle operational by the victim, if the victim is permanently disabled, whether the disability is partial or total, as a direct result of the crime.

(4) (A) If, as a result of the defendant's conduct, the Restitution Fund has provided assistance to or on behalf of a victim or derivative victim pursuant to Chapter 5 (commencing with Section 13950) of Part 4 of Division 3 of Title 2 of the Government Code, the amount of assistance provided shall be presumed to be a direct result of the defendant's criminal conduct and shall be included in the amount of the restitution ordered.

(B) The amount of assistance provided by the Restitution Fund shall be established by copies of bills submitted to the California Victim Compensation and Government Claims Board reflecting the amount paid by the board and whether the services for which

1 payment was made were for medical or dental expenses, funeral
2 or burial expenses, mental health counseling, wage or support
3 losses, or rehabilitation. Certified copies of these bills provided by
4 the board and redacted to protect the privacy and safety of the
5 victim or any legal privilege, together with a statement made under
6 penalty of perjury by the custodian of records that those bills were
7 submitted to and were paid by the board, shall be sufficient to meet
8 this requirement.

9 (C) If the defendant offers evidence to rebut the presumption
10 established by this paragraph, the court may release additional
11 information contained in the records of the board to the defendant
12 only after reviewing that information in camera and finding that
13 the information is necessary for the defendant to dispute the
14 amount of the restitution order.

15 (5) Except as provided in paragraph (6), in any case in which
16 an order may be entered pursuant to this subdivision, the defendant
17 shall prepare and file a disclosure identifying all assets, income,
18 and liabilities in which the defendant held or controlled a present
19 or future interest as of the date of the defendant's arrest for the
20 crime for which restitution may be ordered. This disclosure shall
21 be available to the victim pursuant to Section 1214, and any use the
22 court may make of the disclosure shall be subject to the restrictions
23 of subdivision (g). The disclosure shall be signed by the defendant
24 upon a form approved or adopted by the Judicial Council for the
25 purpose of facilitating the disclosure. Any defendant who willfully
26 states as true any material matter that he or she knows to be false
27 on the disclosure required by this subdivision is guilty of a
28 misdemeanor, unless this conduct is punishable as perjury or
29 another provision of law provides for a greater penalty.

30 (6) A defendant who fails to file the financial disclosure
31 required in paragraph (5), but who has filed a financial affidavit or
32 financial information pursuant to subdivision (c) of Section 987,
33 shall be deemed to have waived the confidentiality of that affidavit
34 or financial information as to a victim in whose favor the order of
35 restitution is entered pursuant to subdivision (f). The affidavit or
36 information shall serve in lieu of the financial disclosure required
37 in paragraph (5), and paragraphs (7) to (10), inclusive, shall not
38 apply.

39 (7) Except as provided in paragraph (6), the defendant shall file
40 the disclosure with the clerk of the court no later than the date set

1 for the defendant's sentencing, unless otherwise directed by the
2 court. The disclosure may be inspected or copied as provided by
3 subdivision (b), (c), or (d) of Section 1203.05.

4 (8) In its discretion, the court may relieve the defendant of the
5 duty under paragraph (7) of filing with the clerk by requiring that
6 the defendant's disclosure be submitted as an attachment to, and
7 be available to, those authorized to receive the following:

8 (A) Any report submitted pursuant to subparagraph (C) of
9 paragraph (2) of subdivision (b) of Section 1203 or subdivision (g)
10 of Section 1203.

11 (B) Any stipulation submitted pursuant to paragraph (4) of
12 subdivision (b) of Section 1203.

13 (C) Any report by the probation officer, or any information
14 submitted by the defendant applying for a conditional sentence
15 pursuant to subdivision (d) of Section 1203.

16 (9) The court may consider a defendant's unreasonable failure
17 to make a complete disclosure pursuant to paragraph (5) as any of
18 the following:

19 (A) A circumstance in aggravation of the crime in imposing a
20 term under subdivision (b) of Section 1170.

21 (B) A factor indicating that the interests of justice would not be
22 served by admitting the defendant to probation under Section
23 1203.

24 (C) A factor indicating that the interests of justice would not be
25 served by conditionally sentencing the defendant under Section
26 1203.

27 (D) A factor indicating that the interests of justice would not be
28 served by imposing less than the maximum fine and sentence fixed
29 by law for the case.

30 (10) A defendant's failure or refusal to make the required
31 disclosure pursuant to paragraph (5) shall not delay entry of an
32 order of restitution or pronouncement of sentence. In appropriate
33 cases, the court may do any of the following:

34 (A) Require the defendant to be examined by the district
35 attorney pursuant to subdivision (h).

36 (B) If sentencing the defendant under Section 1170, provide
37 that the victim shall receive a copy of the portion of the probation
38 report filed pursuant to Section 1203.10 concerning the
39 defendant's employment, occupation, finances, and liabilities.

1 (C) If sentencing the defendant under Section 1203, set a date
2 and place for submission of the disclosure required by paragraph
3 (5) as a condition of probation or suspended sentence.

4 (g) The court shall order full restitution unless it finds
5 compelling and extraordinary reasons for not doing so, and states
6 those reasons on the record. A defendant's inability to pay shall not
7 be considered a compelling and extraordinary reason not to impose
8 a restitution order, nor shall inability to pay be a consideration in
9 determining the amount of a restitution order.

10 (h) The district attorney may request an order of examination
11 pursuant to the procedures specified in Article 2 (commencing
12 with Section 708.110) of Chapter 6 of Division 2 of Title 9 of Part
13 2 of the Code of Civil Procedure, in order to determine the
14 defendant's financial assets for purposes of collecting on the
15 restitution order.

16 (i) A restitution order imposed pursuant to subdivision (f) shall
17 be enforceable as if the order were a civil judgment.

18 (j) The making of a restitution order pursuant to subdivision (f)
19 shall not affect the right of a victim to recovery from the
20 Restitution Fund as otherwise provided by law, except to the extent
21 that restitution is actually collected pursuant to the order.
22 Restitution collected pursuant to this subdivision shall be credited
23 to any other judgments for the same losses obtained against the
24 defendant arising out of the crime for which the defendant was
25 convicted.

26 (k) For purposes of this section, "victim" shall include all of
27 the following:

28 (1) The immediate surviving family of the actual victim.

29 (2) Any corporation, business trust, estate, trust, partnership,
30 association, joint venture, government, governmental
31 subdivision, agency, or instrumentality, or any other legal or
32 commercial entity when that entity is a direct victim of a crime.

33 (3) "Derivative victims" as defined in Section 13951 of the
34 Government Code.

35 (l) At its discretion, the board of supervisors of any county may
36 impose a fee to cover the actual administrative cost of collecting
37 the restitution fine, not to exceed 10 percent of the amount ordered
38 to be paid, to be added to the restitution fine and included in the
39 order of the court, the proceeds of which shall be deposited in the
40 general fund of the county.

1 (m) In every case in which the defendant is granted probation,
2 the court shall make the payment of restitution fines and orders
3 imposed pursuant to this section a condition of probation. Any
4 portion of a restitution order that remains unsatisfied after a
5 defendant is no longer on probation shall continue to be
6 enforceable by a victim pursuant to Section 1214 until the
7 obligation is satisfied.

8 (n) If the court finds and states on the record compelling and
9 extraordinary reasons why a restitution fine or full restitution order
10 should not be required, the court shall order, as a condition of
11 probation, that the defendant perform specified community
12 service, unless it finds and states on the record compelling and
13 extraordinary reasons not to require community service in addition
14 to the finding that restitution should not be required. Upon
15 revocation of probation, the court shall impose restitution pursuant
16 to this section.

17 (o) The provisions of Section 13963 of the Government Code
18 shall apply to restitution imposed pursuant to this section.

19 (p) This section shall become operative on January 1, 2007.

20 *SEC. 9.1. Section 1202.4 is added to the Penal Code, to read:*

21 *1202.4. (a) (1) It is the intent of the Legislature that a victim*
22 *of crime who incurs any economic loss as a result of the*
23 *commission of a crime shall receive restitution directly from any*
24 *defendant convicted of that crime.*

25 *(2) Upon a person being convicted of any crime in the State of*
26 *California, the court shall order the defendant to pay a fine in the*
27 *form of a penalty assessment in accordance with Section 1464.*

28 *(3) The court, in addition to any other penalty provided or*
29 *imposed under the law, shall order the defendant to pay both of the*
30 *following:*

31 *(A) A restitution fine in accordance with subdivision (b).*

32 *(B) Restitution to the victim or victims, if any, in accordance*
33 *with subdivision (f), which shall be enforceable as if the order were*
34 *a civil judgment.*

35 *(b) In every case where a person is convicted of a crime, the*
36 *court shall impose a separate and additional restitution fine,*
37 *unless it finds compelling and extraordinary reasons for not doing*
38 *so, and states those reasons on the record.*

39 *(1) The restitution fine shall be set at the discretion of the court*
40 *and commensurate with the seriousness of the offense, but shall not*

1 *be less than two hundred dollars (\$200), and not more than ten*
2 *thousand dollars (\$10,000), if the person is convicted of a felony,*
3 *and shall not be less than one hundred dollars (\$100), and not*
4 *more than one thousand dollars (\$1,000), if the person is convicted*
5 *of a misdemeanor.*

6 (2) *In setting a felony restitution fine, the court may determine*
7 *the amount of the fine as the product of two hundred dollars (\$200)*
8 *multiplied by the number of years of imprisonment the defendant*
9 *is ordered to serve, multiplied by the number of felony counts of*
10 *which the defendant is convicted.*

11 (c) *The court shall impose the restitution fine unless it finds*
12 *compelling and extraordinary reasons for not doing so, and states*
13 *those reasons on the record. A defendant's inability to pay shall not*
14 *be considered a compelling and extraordinary reason not to*
15 *impose a restitution fine. Inability to pay may be considered only*
16 *in increasing the amount of the restitution fine in excess of the two*
17 *hundred dollar (\$200) or one hundred dollar (\$100) minimum.*

18 (d) *In setting the amount of the fine pursuant to subdivision (b)*
19 *in excess of the two hundred dollar (\$200) or one hundred dollar*
20 *(\$100) minimum, the court shall consider any relevant factors*
21 *including, but not limited to, the defendant's inability to pay, the*
22 *seriousness and gravity of the offense and the circumstances of its*
23 *commission, any economic gain derived by the defendant as a*
24 *result of the crime, the extent to which any other person suffered*
25 *any losses as a result of the crime, and the number of victims*
26 *involved in the crime. Those losses may include pecuniary losses*
27 *to the victim or his or her dependents as well as intangible losses,*
28 *such as psychological harm caused by the crime. Consideration of*
29 *a defendant's inability to pay may include his or her future earning*
30 *capacity. A defendant shall bear the burden of demonstrating his*
31 *or her inability to pay. Express findings by the court as to the*
32 *factors bearing on the amount of the fine shall not be required. A*
33 *separate hearing for the fine shall not be required.*

34 (e) *The restitution fine shall not be subject to penalty*
35 *assessments as provided in Section 1464, and shall be deposited*
36 *in the Restitution Fund in the State Treasury.*

37 (f) *In every case in which a victim has suffered economic loss*
38 *as a result of the defendant's conduct, the court shall require that*
39 *the defendant make restitution to the victim or victims in an amount*
40 *established by court order, based on the amount of loss claimed by*

1 *the victim or victims or any other showing to the court. If the*
 2 *amount of loss cannot be ascertained at the time of sentencing, the*
 3 *restitution order shall include a provision that the amount shall be*
 4 *determined at the direction of the court. The court shall order full*
 5 *restitution unless it finds compelling and extraordinary reasons for*
 6 *not doing so, and states them on the record.*

7 *(1) The defendant has the right to a hearing before a judge to*
 8 *dispute the determination of the amount of restitution. The court*
 9 *may modify the amount, on its own motion or on the motion of the*
 10 *district attorney, the victim or victims, or the defendant. If a motion*
 11 *is made for modification of a restitution order, the victim shall be*
 12 *notified of that motion at least 10 days prior to the proceeding held*
 13 *to decide the motion.*

14 *(2) Determination of the amount of restitution ordered*
 15 *pursuant to this subdivision shall not be affected by the*
 16 *indemnification or subrogation rights of any third party.*
 17 *Restitution ordered pursuant to this subdivision shall be ordered*
 18 *to be deposited to the Restitution Fund to the extent that the victim,*
 19 *as defined in subdivision (k), has received assistance from the*
 20 *Victim Compensation Program pursuant to Chapter 5*
 21 *(commencing with Section 13950) of Part 4 of Division 3 of Title*
 22 *2 of the Government Code.*

23 *(3) To the extent possible, the restitution order shall be*
 24 *prepared by the sentencing court, shall identify each victim and*
 25 *each loss to which it pertains, and shall be of a dollar amount that*
 26 *is sufficient to fully reimburse the victim or victims for every*
 27 *determined economic loss incurred as the result of the defendant's*
 28 *criminal conduct, including, but not limited to, all of the following:*

29 *(A) Full or partial payment for the value of stolen or damaged*
 30 *property. The value of stolen or damaged property shall be the*
 31 *replacement cost of like property, or the actual cost of repairing the*
 32 *property when repair is possible.*

33 *(B) Medical expenses.*

34 *(C) Mental health counseling expenses.*

35 *(D) Wages or profits lost due to injury incurred by the victim,*
 36 *and if the victim is a minor, wages or profits lost by the minor's*
 37 *parent, parents, guardian, or guardians, while caring for the*
 38 *injured minor. Lost wages shall include any commission income as*
 39 *well as any base wages. Commission income shall be established*
 40 *by evidence of commission income during the 12-month period*

1 prior to the date of the crime for which restitution is being ordered,
2 unless good cause for a shorter time period is shown.

3 (E) Wages or profits lost by the victim, and if the victim is a
4 minor, wages or profits lost by the minor's parent, parents,
5 guardian, or guardians, due to time spent as a witness or in
6 assisting the police or prosecution. Lost wages shall include any
7 commission income as well as any base wages. Commission
8 income shall be established by evidence of commission income
9 during the 12-month period prior to the date of the crime for which
10 restitution is being ordered, unless good cause for a shorter time
11 period is shown.

12 (F) Noneconomic losses, including, but not limited to,
13 psychological harm, for felony violations of Section 288.

14 (G) Interest, at the rate of 10 percent per annum, that accrues
15 as of the date of sentencing or loss, as determined by the court.

16 (H) Actual and reasonable attorney's fees and other costs of
17 collection accrued by a private entity on behalf of the victim.

18 (I) Expenses incurred by an adult victim in relocating away
19 from the defendant, including, but not limited to, deposits for
20 utilities and telephone service, deposits for rental housing,
21 temporary lodging and food expenses, clothing, and personal
22 items. Expenses incurred pursuant to this section shall be verified
23 by law enforcement to be necessary for the personal safety of the
24 victim or by a mental health treatment provider to be necessary for
25 the emotional well-being of the victim.

26 (J) Expenses to install or increase residential security incurred
27 related to a crime, as defined in subdivision (c) of Section 667.5,
28 including, but not limited to, a home security device or system, or
29 replacing or increasing the number of locks.

30 (K) Expenses to retrofit a residence or vehicle, or both, to make
31 the residence accessible to or the vehicle operational by the victim,
32 if the victim is permanently disabled, whether the disability is
33 partial or total, as a direct result of the crime.

34 (4) (A) If, as a result of the defendant's conduct, the Restitution
35 Fund has provided assistance to or on behalf of a victim or
36 derivative victim pursuant to Chapter 5 (commencing with Section
37 13950) of Part 4 of Division 3 of Title 2 of the Government Code,
38 the amount of assistance provided shall be presumed to be a direct
39 result of the defendant's criminal conduct and shall be included in
40 the amount of the restitution ordered.

1 (B) *The amount of assistance provided by the Restitution Fund*
2 *shall be established by copies of bills submitted to the California*
3 *Victim Compensation and Government Claims Board reflecting*
4 *the amount paid by the board and whether the services for which*
5 *payment was made were for medical or dental expenses, funeral*
6 *or burial expenses, mental health counseling, wage or support*
7 *losses, or rehabilitation. Certified copies of these bills provided by*
8 *the board and redacted to protect the privacy and safety of the*
9 *victim or any legal privilege, together with a statement made under*
10 *penalty of perjury by the custodian of records that those bills were*
11 *submitted to and were paid by the board, shall be sufficient to meet*
12 *this requirement.*

13 (C) *If the defendant offers evidence to rebut the presumption*
14 *established by this paragraph, the court may release additional*
15 *information contained in the records of the board to the defendant*
16 *only after reviewing that information in camera and finding that*
17 *the information is necessary for the defendant to dispute the*
18 *amount of the restitution order.*

19 (5) *Except as provided in paragraph (6), in any case in which*
20 *an order may be entered pursuant to this subdivision, the defendant*
21 *shall prepare and file a disclosure identifying all assets, income,*
22 *and liabilities in which the defendant held or controlled a present*
23 *or future interest as of the date of the defendant's arrest for the*
24 *crime for which restitution may be ordered. The financial*
25 *disclosure statements shall be made available to the victim and the*
26 *board pursuant to Section 1214. The disclosure shall be signed by*
27 *the defendant upon a form approved or adopted by the Judicial*
28 *Council for the purpose of facilitating the disclosure. Any*
29 *defendant who willfully states as true any material matter that he*
30 *or she knows to be false on the disclosure required by this*
31 *subdivision is guilty of a misdemeanor, unless this conduct is*
32 *punishable as perjury or another provision of law provides for a*
33 *greater penalty.*

34 (6) *A defendant who fails to file the financial disclosure*
35 *required in paragraph (5), but who has filed a financial affidavit*
36 *or financial information pursuant to subdivision (c) of Section*
37 *987, shall be deemed to have waived the confidentiality of that*
38 *affidavit or financial information as to a victim in whose favor the*
39 *order of restitution is entered pursuant to subdivision (f). The*
40 *affidavit or information shall serve in lieu of the financial*



1 *disclosure required in paragraph (5), and paragraphs (7) to (10),*
2 *inclusive, shall not apply.*

3 *(7) Except as provided in paragraph (6), the defendant shall*
4 *file the disclosure with the clerk of the court no later than the date*
5 *set for the defendant's sentencing, unless otherwise directed by the*
6 *court. The disclosure may be inspected or copied as provided by*
7 *subdivision (b), (c), or (d) of Section 1203.05.*

8 *(8) In its discretion, the court may relieve the defendant of the*
9 *duty under paragraph (7) of filing with the clerk by requiring that*
10 *the defendant's disclosure be submitted as an attachment to, and*
11 *be available to, those authorized to receive the following:*

12 *(A) Any report submitted pursuant to subparagraph (C) of*
13 *paragraph (2) of subdivision (b) of Section 1203 or subdivision (g)*
14 *of Section 1203.*

15 *(B) Any stipulation submitted pursuant to paragraph (4) of*
16 *subdivision (b) of Section 1203.*

17 *(C) Any report by the probation officer, or any information*
18 *submitted by the defendant applying for a conditional sentence*
19 *pursuant to subdivision (d) of Section 1203.*

20 *(9) The court may consider a defendant's unreasonable failure*
21 *to make a complete disclosure pursuant to paragraph (5) as any*
22 *of the following:*

23 *(A) A circumstance in aggravation of the crime in imposing a*
24 *term under subdivision (b) of Section 1170.*

25 *(B) A factor indicating that the interests of justice would not be*
26 *served by admitting the defendant to probation under Section*
27 *1203.*

28 *(C) A factor indicating that the interests of justice would not be*
29 *served by conditionally sentencing the defendant under Section*
30 *1203.*

31 *(D) A factor indicating that the interests of justice would not be*
32 *served by imposing less than the maximum fine and sentence fixed*
33 *by law for the case.*

34 *(10) A defendant's failure or refusal to make the required*
35 *disclosure pursuant to paragraph (5) shall not delay entry of an*
36 *order of restitution or pronouncement of sentence. In appropriate*
37 *cases, the court may do any of the following:*

38 *(A) Require the defendant to be examined by the district*
39 *attorney pursuant to subdivision (h).*

1 (B) If sentencing the defendant under Section 1170, provide
2 that the victim shall receive a copy of the portion of the probation
3 report filed pursuant to Section 1203.10 concerning the
4 defendant's employment, occupation, finances, and liabilities.

5 (C) If sentencing the defendant under Section 1203, set a date
6 and place for submission of the disclosure required by paragraph
7 (5) as a condition of probation or suspended sentence.

8 (11) If a defendant has any remaining unpaid balance on a
9 restitution order or fine 120 days prior to his or her scheduled
10 release from probation or 120 days prior to his or her completion
11 of a conditional sentence, the defendant shall prepare and file a
12 new and updated financial disclosure identifying all assets,
13 income, and liabilities in which the defendant holds or controls or
14 has held or controlled a present or future interest during the
15 defendant's period of probation or conditional sentence. The
16 financial disclosure shall be made available to the victim and the
17 board pursuant to Section 1214. The disclosure shall be signed and
18 prepared by the defendant on the same form as described in
19 paragraph (5). Any defendant who willfully states as true any
20 material matter that he or she knows to be false on the disclosure
21 required by this subdivision is guilty of a misdemeanor, unless this
22 conduct is punishable as perjury or another provision of law
23 provides for a greater penalty. The financial disclosure required by
24 this paragraph shall be filed with the clerk of the court no later
25 than 90 days prior to the defendant's scheduled release from
26 probation or completion of the defendant's conditional sentence.

27 (g) The court shall order full restitution unless it finds
28 compelling and extraordinary reasons for not doing so, and states
29 those reasons on the record. A defendant's inability to pay shall not
30 be considered a compelling and extraordinary reason not to
31 impose a restitution order, nor shall inability to pay be a
32 consideration in determining the amount of a restitution order.

33 (h) The district attorney may request an order of examination
34 pursuant to the procedures specified in Article 2 (commencing with
35 Section 708.110) of Chapter 6 of Division 2 of Title 9 of Part 2 of
36 the Code of Civil Procedure, in order to determine the defendant's
37 financial assets for purposes of collecting on the restitution order.

38 (i) A restitution order imposed pursuant to subdivision (f) shall
39 be enforceable as if the order were a civil judgment.

(j) *The making of a restitution order pursuant to subdivision (f) shall not affect the right of a victim to recovery from the Restitution Fund as otherwise provided by law, except to the extent that restitution is actually collected pursuant to the order. Restitution collected pursuant to this subdivision shall be credited to any other judgments for the same losses obtained against the defendant arising out of the crime for which the defendant was convicted.*

(k) *For purposes of this section, “victim” shall include all of the following:*

(1) *The immediate surviving family of the actual victim.*

(2) *Any corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity when that entity is a direct victim of a crime.*

(3) *Any person who has sustained economic loss as the result of a crime and who satisfies any of the following conditions:*

(A) *At the time of the crime was the parent, grandparent, sibling, spouse, child, or grandchild of the victim.*

(B) *At the time of the crime was living in the household of the victim.*

(C) *At the time of the crime was a person who had previously lived in the household of the victim for a period of not less than two years in a relationship substantially similar to a relationship listed in subparagraph (A).*

(D) *Is another family member of the victim, including, but not limited to, the victim’s fiancé or fiancée, and who witnessed the crime.*

(E) *Is the primary caretaker of a minor victim.*

(4) *Any person who is eligible to receive assistance from the Restitution Fund pursuant to Chapter 5 (commencing with Section 13950) of Part 4 of Division 3 of Title 2 of the Government Code.*

(l) *At its discretion, the board of supervisors of any county may impose a fee to cover the actual administrative cost of collecting the restitution fine, not to exceed 10 percent of the amount ordered to be paid, to be added to the restitution fine and included in the order of the court, the proceeds of which shall be deposited in the general fund of the county.*

(m) *In every case in which the defendant is granted probation, the court shall make the payment of restitution fines and orders imposed pursuant to this section a condition of probation. Any*

1 *portion of a restitution order that remains unsatisfied after a*
2 *defendant is no longer on probation shall continue to be*
3 *enforceable by a victim pursuant to Section 1214 until the*
4 *obligation is satisfied.*

5 *(n) If the court finds and states on the record compelling and*
6 *extraordinary reasons why a restitution fine or full restitution*
7 *order should not be required, the court shall order, as a condition*
8 *of probation, that the defendant perform specified community*
9 *service, unless it finds and states on the record compelling and*
10 *extraordinary reasons not to require community service in addition*
11 *to the finding that restitution should not be required. Upon*
12 *revocation of probation, the court shall impose restitution*
13 *pursuant to this section.*

14 *(o) The provisions of Section 13963 of the Government Code*
15 *shall apply to restitution imposed pursuant to this section.*

16 *(p) The court clerk shall notify the California Victim*
17 *Compensation and Government Claims Board within 90 days of an*
18 *order of restitution being imposed if the defendant is ordered to pay*
19 *restitution to the board due to the victim receiving compensation*
20 *from the Restitution Fund. Notification shall be accomplished by*
21 *mailing a copy of the court order to the board, which may be done*
22 *periodically by bulk mail or electronic mail.*

23 *(q) This section shall become operative on January 1, 2007.*

24 SEC. 10. Section 2085.5 of the Penal Code is amended to
25 read:

26 2085.5. (a) In any case in which a prisoner owes a restitution
27 fine imposed pursuant to subdivision (a) of Section 13967 of the
28 Government Code, as operative prior to September 28, 1994, or
29 subdivision (b) of Section 1202.4, the Director of Corrections shall
30 deduct a minimum of 20 percent or the balance owing on the fine
31 amount, whichever is less, up to a maximum of 30 percent from
32 the wages and trust account deposits of a prisoner, unless
33 prohibited by federal law, and shall transfer that amount to the
34 California Victim Compensation and Government Claims Board
35 for deposit in the Restitution Fund in the State Treasury. Any
36 amount so deducted shall be credited against the amount owing on
37 the fine. The sentencing court shall be provided a record of the
38 payments.

39 (b) In any case in which a prisoner owes a restitution order
40 imposed pursuant to subdivision (c) of Section 13967 of the

1 Government Code, as operative prior to September 28, 1994, or
2 subdivision (f) of Section 1202.4, the Director of Corrections shall
3 deduct a minimum of 20 percent or the balance owing on the order
4 amount, whichever is less, up to a maximum of 30 percent from
5 the wages and trust account deposits of a prisoner, unless
6 prohibited by federal law. If the restitution is owed to a person who
7 has filed an application with the Victim Compensation Program,
8 the director shall transfer that amount to the California Victim
9 Compensation and Government Claims Board for direct payment
10 to the victim, or payment shall be made to the Restitution Fund to
11 the extent that the victim has received assistance pursuant to that
12 program. No deductions shall be made on behalf of victims who
13 have not filed an application with the Victim Compensation
14 Program. The sentencing court shall be provided a record of the
15 payments made to victims and of the payments deposited to the
16 Restitution Fund pursuant to this subdivision.

17 (c) The director shall deduct and retain from the wages and trust
18 account deposits of a prisoner, unless prohibited by federal law, an
19 administrative fee that totals up to 10 percent of any amount
20 transferred to the California Victim Compensation and
21 Government Claims Board pursuant to subdivision (a) or (b). The
22 director shall deduct and retain from any prisoner settlement or
23 trial award, an administrative fee that totals 5 percent of any
24 amount paid from the settlement or award to satisfy an outstanding
25 restitution order or fine pursuant to subdivision (j), unless
26 prohibited by federal law. The director shall deposit the
27 administrative fee moneys in a special deposit account for
28 reimbursing administrative and support costs of the restitution
29 program of the Department of Corrections.

30 (d) In any case in which a parolee owes a restitution fine
31 imposed pursuant to subdivision (a) of Section 13967 of the
32 Government Code, as operative prior to September 28, 1994, or
33 subdivision (b) of Section 1202.4, the Director of Corrections may
34 collect from the parolee any moneys owing on the restitution fine
35 amount, unless prohibited by federal law, and shall transfer that
36 amount to the California Victim Compensation and Government
37 Claims Board for deposit in the Restitution Fund in the State
38 Treasury. Any amount so deducted shall be credited against the
39 amount owing on the fine. The sentencing court shall be provided
40 a record of the payments.



(e) In any case in which a parolee owes a direct order of restitution, imposed pursuant to subdivision (c) of Section 13967 of the Government Code, as operative prior to September 28, 1994, or paragraph (3) of subdivision (a) of Section 1202.4, the Director of Corrections may collect from the parolee any moneys owing, unless prohibited by federal law. If the restitution is owed to a person who has filed an application with the Victim Compensation Program, the director shall transfer that amount to the California Victim Compensation and Government Claims Board for direct payment to the victim, or payment shall be made to the Restitution Fund to the extent that the victim has received assistance pursuant to that program. No deductions shall be made on behalf of victims who have not filed an application with the Victim Compensation Program. The sentencing court shall be provided a record of the payments made by the offender pursuant to this subdivision.

(f) The director may deduct and retain from any moneys collected from parolees an administrative fee that totals up to 10 percent of any amount transferred to the California Victim Compensation and Government Claims Board pursuant to subdivision (d) or (e), unless prohibited by federal law. The director shall deduct and retain from any settlement or trial award of a parolee an administrative fee that totals 5 percent of any amount paid from the settlement or award to satisfy an outstanding restitution order or fine pursuant to subdivision (j), unless prohibited by federal law. The director shall deposit the administrative fee moneys in a special deposit account for reimbursing administrative and support costs of the restitution program of the Department of Corrections.

(g) When a prisoner has both a restitution fine and a restitution order from the sentencing court, the Department of Corrections shall collect the restitution order first pursuant to subdivision (b).

(h) When a parolee has both a restitution fine and order from the sentencing court, the Department of Corrections may collect the restitution order first, pursuant to subdivision (e).

(i) If an inmate is housed at an institution that requires food to be purchased from the institution canteen for unsupervised overnight visits, and if the money for the purchase of this food is received from funds other than the inmate's wages, that money shall be exempt from restitution deductions. This exemption shall

1 apply to the actual amount spent on food for the visit up to a
2 maximum of fifty dollars (\$50) for visits that include the inmate
3 and one visitor, seventy dollars (\$70) for visits that include the
4 inmate and two or three visitors, and eighty dollars (\$80) for visits
5 that include the inmate and four or more visitors.

6 (j) Any compensatory or punitive damages awarded by trial or
7 settlement to any inmate or parolee in connection with a civil
8 action brought against any federal, state, or local jail, prison, or
9 correctional facility, or any official or agent thereof, shall be paid
10 directly, after payment of reasonable attorney's fees and litigation
11 costs approved by the court, to satisfy any outstanding restitution
12 orders or restitution fines against that person. The balance of any
13 award shall be forwarded to the payee after full payment of all
14 outstanding restitution orders and restitution fines, subject to
15 subdivisions (c) and (f). The Department of Corrections shall
16 make all reasonable efforts to notify the victims of the crime for
17 which that person was convicted concerning the pending payment
18 of any compensatory or punitive damages.

19 (k) (1) Amounts transferred to the California Victim
20 Compensation and Government Claims Board for payment of
21 direct orders of restitution shall be paid to the victim within 60
22 days from the date the restitution revenues are received by the
23 California Victim Compensation and Government Claims Board.
24 If the restitution payment to a victim is less than fifty dollars (\$50),
25 then payment need not be forwarded to that victim until the
26 payment reaches fifty dollars (\$50) or until 180 days from the date
27 the first payment is received, whichever occurs sooner.

28 (2) In any case in which a victim cannot be located, the
29 restitution revenues received by the California Victim
30 Compensation and Government Claims Board on behalf of the
31 victim shall be held in trust in the Restitution Fund until the end
32 of the state fiscal year subsequent to the state fiscal year in which
33 the funds were deposited or until the time that the victim has
34 provided current address information, whichever occurs sooner.
35 Amounts remaining in trust at the end of the specified period of
36 time shall revert to the Restitution Fund.

37 (3) Any victim failing to provide a current address within the
38 period of time specified in paragraph (2) may provide
39 documentation to the Department of Corrections, which in turn
40 shall verify that moneys were in fact collected on behalf of the

1 victim. Upon receipt of that verified information from the
2 Department of Corrections, the California Victim Compensation
3 and Government Claims Board shall transmit the restitution
4 revenues to the victim in accordance with the provisions of
5 subdivision (b).

6 (l) This section shall become inoperative on July 1, 2008, and,
7 as of January 1, 2009, is repealed, unless a later enacted statute,
8 that is enacted before January 1, 2009, deletes or extends the dates
9 on which it becomes inoperative and is repealed.

10 *SEC. 10.1. Section 2085.5 of the Penal Code is amended to*
11 *read:*

12 2085.5. (a) In any case in which a prisoner owes a restitution
13 fine imposed pursuant to subdivision (a) of Section 13967 of the
14 Government Code, as operative prior to September 28, 1994,
15 *subdivision (b) of Section 730.6 of the Welfare and Institutions*
16 *Code*, or subdivision (b) of Section 1202.4, the Director of
17 Corrections shall deduct a minimum of 20 percent or the balance
18 owing on the fine amount, whichever is less, up to a maximum of
19 ~~50~~ 30 percent from the wages and trust account deposits of a
20 prisoner, unless prohibited by federal law, and shall transfer that
21 amount to the California Victim Compensation and Government
22 Claims Board for deposit in the Restitution Fund in the State
23 Treasury. Any amount so deducted shall be credited against the
24 amount owing on the fine. The sentencing court shall be provided
25 a record of the payments.

26 (b) In any case in which a prisoner owes a restitution order
27 imposed pursuant to subdivision (c) of Section 13967 of the
28 Government Code, as operative prior to September 28, 1994,
29 *subdivision (h) of Section 730.6 of the Welfare and Institutions*
30 *Code*, or subdivision (f) of Section 1202.4, the Director of
31 Corrections shall deduct a minimum of 20 percent or the balance
32 owing on the order amount, whichever is less, up to a maximum
33 of ~~50~~ 30 percent from the wages and trust account deposits of a
34 prisoner, unless prohibited by federal law. If the restitution is owed
35 to a person who has filed an application with the ~~Victims of Crime~~
36 *Victim Compensation* Program, the director shall transfer that
37 amount to the California Victim Compensation and Government
38 Claims Board for direct payment to the victim, or payment shall
39 be made to the Restitution Fund to the extent that the victim has
40 received assistance pursuant to that program. No deductions shall

1 be made on behalf of victims who have not filed an application
2 with the ~~Victims of Crime~~ *Victim Compensation* Program. The
3 sentencing court shall be provided a record of the payments made
4 to victims and of the payments deposited to the Restitution Fund
5 pursuant to this subdivision.

6 (c) The director shall deduct and retain from the wages and trust
7 account deposits of a prisoner, unless prohibited by federal law, an
8 administrative fee that totals *up to* 10 percent of any amount
9 transferred to the California Victim Compensation and
10 Government Claims Board pursuant to subdivision (a) or (b). The
11 director shall deduct and retain from any prisoner settlement or
12 trial award, an administrative fee that totals 5 percent of any
13 amount paid from the settlement or award to satisfy an outstanding
14 restitution order or fine pursuant to subdivision (j), unless
15 prohibited by federal law. The director shall deposit the
16 administrative fee moneys in a special deposit account for
17 reimbursing administrative and support costs of the restitution
18 program of the Department of Corrections. ~~The director, at his or~~
19 ~~her discretion, may retain any excess funds in the special deposit~~
20 ~~account for future reimbursement of the department's~~
21 ~~administrative and support costs for the restitution program or may~~
22 ~~transfer all or part of the excess funds for deposit in the Restitution~~
23 ~~Fund.~~

24 (d) In any case in which a parolee owes a restitution fine
25 imposed pursuant to subdivision (a) of Section 13967 of the
26 Government Code, as operative prior to September 28, 1994,
27 *subdivision (b) of Section 730.6 of the Welfare and Institutions*
28 *Code*, or subdivision (b) of Section 1202.4, the Director of
29 Corrections may collect from the parolee any moneys owing on the
30 restitution fine amount, unless prohibited by federal law, ~~and~~. *The*
31 *director* shall transfer that amount to the California Victim
32 Compensation and Government Claims Board for deposit in the
33 Restitution Fund in the State Treasury. Any amount so deducted
34 shall be credited against the amount owing on the fine. The
35 sentencing court shall be provided a record of the payments.

36 (e) In any case in which a parolee owes a direct order of
37 restitution, imposed pursuant to subdivision (c) of Section 13967
38 of the Government Code, as operative prior to September 28,
39 1994, *subdivision (h) of Section 730.6 of the Welfare and*
40 *Institutions Code*, or paragraph (3) of subdivision (a) of Section

1 1202.4, the Director of Corrections may collect from the parolee
 2 any moneys owing, unless prohibited by federal law. If the
 3 restitution is owed to a person who has filed an application with
 4 the ~~Victims of Crime~~ *Victim Compensation* Program, the director
 5 shall transfer that amount to the California Victim Compensation
 6 and Government Claims Board for direct payment to the victim,
 7 or payment shall be made to the Restitution Fund to the extent that
 8 the victim has received assistance pursuant to that program. No
 9 deductions shall be made on behalf of victims who have not filed
 10 an application with the ~~Victims of Crime~~ *Victim Compensation*
 11 Program. The sentencing court shall be provided a record of the
 12 payments made by the offender pursuant to this subdivision.

13 (f) The director may deduct and retain from any moneys
 14 collected from parolees an administrative fee that totals *up to* 10
 15 percent of any amount transferred to the California Victim
 16 Compensation and Government Claims Board pursuant to
 17 subdivision (d) or (e), unless prohibited by federal law. The
 18 director shall deduct and retain from any settlement or trial award
 19 of a parolee an administrative fee that totals 5 percent of any
 20 amount paid from the settlement or award to satisfy an outstanding
 21 restitution order or fine pursuant to subdivision (j), unless
 22 prohibited by federal law. The director shall deposit the
 23 administrative fee moneys in a special deposit account for
 24 reimbursing administrative and support costs of the restitution
 25 program of the Department of Corrections. ~~The director, at his or~~
 26 ~~her discretion, may retain any excess funds in the special deposit~~
 27 ~~account for future reimbursement of the department's~~
 28 ~~administrative and support costs for the restitution program or may~~
 29 ~~transfer all or part of the excess funds for deposit in the Restitution~~
 30 ~~Fund.~~

31 (g) When a prisoner has both a restitution fine and a restitution
 32 order from the sentencing court, the Department of Corrections
 33 shall collect the restitution order first pursuant to subdivision (b).

34 (h) When a parolee has both a restitution fine and order from
 35 the sentencing court, the Department of Corrections may collect
 36 the restitution order first, pursuant to subdivision (e).

37 (i) If an inmate is housed at an institution that requires food to
 38 be purchased from the institution canteen for unsupervised
 39 overnight visits, and if the money for the purchase of this food is
 40 received from funds other than the inmate's wages, that money

1 shall be exempt from restitution deductions. This exemption shall
2 apply to the actual amount spent on food for the visit up to a
3 maximum of fifty dollars (\$50) for visits that include the inmate
4 and one visitor, seventy dollars (\$70) for visits that include the
5 inmate and two or three visitors, and eighty dollars (\$80) for visits
6 that include the inmate and four or more visitors.

7 (j) Any compensatory or punitive damages awarded by trial or
8 settlement to any inmate or parolee in connection with a civil
9 action brought against any federal, state, or local jail, prison, or
10 correctional facility, or any official or agent thereof, shall be paid
11 directly, after payment of reasonable attorney's fees and litigation
12 costs approved by the court, to satisfy any outstanding restitution
13 orders or restitution fines against that person. The balance of any
14 award shall be forwarded to the payee after full payment of all
15 outstanding restitution orders and restitution fines, subject to
16 subdivisions (c) and (f). The Department of Corrections shall
17 make all reasonable efforts to notify the victims of the crime for
18 which that person was convicted concerning the pending payment
19 of any compensatory or punitive damages.

20 (k) (1) Amounts transferred to the California Victim
21 Compensation and Government Claims Board for payment of
22 direct orders of restitution shall be paid to the victim within 60
23 days from the date the restitution revenues are received by the
24 California Victim Compensation and Government Claims Board.
25 If the restitution payment to a victim is less than fifty dollars (\$50),
26 then payment need not be forwarded to that victim until the
27 payment reaches fifty dollars (\$50) or until 180 days from the date
28 the first payment is received, whichever occurs sooner.

29 (2) In any case in which a victim cannot be located, the
30 restitution revenues received by the California Victim
31 Compensation and Government Claims Board on behalf of the
32 victim shall be held in trust in the Restitution Fund until the end
33 of the state fiscal year subsequent to the state fiscal year in which
34 the funds were deposited or until the time that the victim has
35 provided current address information, whichever occurs sooner.
36 Amounts remaining in trust at the end of the specified period of
37 time shall revert to the Restitution Fund.

38 (3) Any victim failing to provide a current address within the
39 period of time specified in paragraph (2) may provide
40 documentation to the Department of Corrections, which in turn

1 shall verify that moneys were in fact collected on behalf of the
2 victim. Upon receipt of that verified information from the
3 Department of Corrections, the California Victim Compensation
4 and Government Claims Board shall transmit the restitution
5 revenues to the victim in accordance with the provisions of
6 subdivision (b).

7 *(1) This section shall become inoperative on July 1, 2008, and,*
8 *as of January 1, 2009, is repealed, unless a later enacted statute,*
9 *that becomes operative on or before January 1, 2009, deletes or*
10 *extends the dates on which it becomes inoperative and is repealed.*

11 SEC. 11. Section 2085.5 is added to the Penal Code, to read:

12 2085.5. (a) In any case in which a prisoner owes a restitution
13 fine imposed pursuant to subdivision (a) of Section 13967 of the
14 Government Code, as operative prior to September 28, 1994, or
15 subdivision (b) of Section 1202.4, the Director of Corrections shall
16 deduct a minimum of 20 percent or the balance owing on the fine
17 amount, whichever is less, up to a maximum of 30 percent from
18 the wages and trust account deposits of a prisoner, unless
19 prohibited by federal law, and shall transfer that amount to the
20 California Victim Compensation and Government Claims Board
21 for deposit in the Restitution Fund in the State Treasury. Any
22 amount so deducted shall be credited against the amount owing on
23 the fine. The sentencing court shall be provided a record of the
24 payments.

25 (b) In any case in which a prisoner owes a restitution order
26 imposed pursuant to subdivision (c) of Section 13967 of the
27 Government Code, as operative prior to September 28, 1994, or
28 subdivision (f) of Section 1202.4, the Director of Corrections shall
29 deduct a minimum of 20 percent or the balance owing on the order
30 amount, whichever is less, up to a maximum of 30 percent from
31 the wages and trust account deposits of a prisoner, unless
32 prohibited by federal law. If the restitution is owed to a person who
33 has filed an application with the Victim Compensation Program,
34 the director shall transfer that amount to the California Victim
35 Compensation and Government Claims Board for direct payment
36 to the victim, or payment shall be made to the Restitution Fund to
37 the extent that the victim has received assistance pursuant to that
38 program. No deductions shall be made on behalf of victims who
39 have not filed an application with the Victim Compensation
40 Program. The sentencing court shall be provided a record of the

1 payments made to victims and of the payments deposited to the
2 Restitution Fund pursuant to this subdivision.

3 (c) The director shall deduct and retain from the wages and trust
4 account deposits of a prisoner, unless prohibited by federal law, an
5 administrative fee that totals 5 percent of any amount transferred
6 to the California Victim Compensation and Government Claims
7 Board pursuant to subdivision (a) or (b). The director shall deduct
8 and retain from any prisoner settlement or trial award, an
9 administrative fee that totals 5 percent of any amount paid from the
10 settlement or award to satisfy an outstanding restitution order or
11 fine pursuant to subdivision (j), unless prohibited by federal law.
12 The director shall deposit the administrative fee moneys in a
13 special deposit account for reimbursing administrative and
14 support costs of the restitution program of the Department of
15 Corrections.

16 (d) In any case in which a parolee owes a restitution fine
17 imposed pursuant to subdivision (a) of Section 13967 of the
18 Government Code, as operative prior to September 28, 1994, or
19 subdivision (b) of Section 1202.4, the Director of Corrections may
20 collect from the parolee any moneys owing on the restitution fine
21 amount, unless prohibited by federal law, and shall transfer that
22 amount to the California Victim Compensation and Government
23 Claims Board for deposit in the Restitution Fund in the State
24 Treasury. Any amount so deducted shall be credited against the
25 amount owing on the fine. The sentencing court shall be provided
26 a record of the payments.

27 (e) In any case in which a parolee owes a direct order of
28 restitution, imposed pursuant to subdivision (c) of Section 13967
29 of the Government Code, as operative prior to September 28,
30 1994, or paragraph (3) of subdivision (a) of Section 1202.4, the
31 Director of Corrections may collect from the parolee any moneys
32 owing, unless prohibited by federal law. If the restitution is owed
33 to a person who has filed an application with the Victim
34 Compensation Program, the director shall transfer that amount to
35 the California Victim Compensation and Government Claims
36 Board for direct payment to the victim, or payment shall be made
37 to the Restitution Fund to the extent that the victim has received
38 assistance pursuant to that program. No deductions shall be made
39 on behalf of victims who have not filed an application with the
40 Victim Compensation Program. The sentencing court shall be

provided a record of the payments made by the offender pursuant to this subdivision.

(f) The director may deduct and retain from any moneys collected from parolees an administrative fee that totals 10 percent of any amount transferred to the California Victim Compensation and Government Claims Board pursuant to subdivision (d) or (e), unless prohibited by federal law. The director shall deduct and retain from any settlement or trial award of a parolee an administrative fee that totals 5 percent of any amount paid from the settlement or award to satisfy an outstanding restitution order or fine pursuant to subdivision (j), unless prohibited by federal law. The director shall deposit the administrative fee moneys in a special deposit account for reimbursing administrative and support costs of the restitution program of the Department of Corrections.

(g) When a prisoner has both a restitution fine and a restitution order from the sentencing court, the Department of Corrections shall collect the restitution order first, pursuant to subdivision (b).

(h) When a parolee has both a restitution fine and order from the sentencing court, the Department of Corrections may collect the restitution order first, pursuant to subdivision (e).

(i) If an inmate is housed at an institution that requires food to be purchased from the institution canteen for unsupervised overnight visits, and if the money for the purchase of this food is received from funds other than the inmate's wages, that money shall be exempt from restitution deductions. This exemption shall apply to the actual amount spent on food for the visit up to a maximum of fifty dollars (\$50) for visits that include the inmate and one visitor, seventy dollars (\$70) for visits that include the inmate and two or three visitors, and eighty dollars (\$80) for visits that include the inmate and four or more visitors.

(j) Any compensatory or punitive damages awarded by trial or settlement to any inmate or parolee in connection with a civil action brought against any federal, state, or local jail, prison, or correctional facility, or any official or agent thereof, shall be paid directly, after payment of reasonable attorney's fees and litigation costs approved by the court, to satisfy any outstanding restitution orders or restitution fines against that person. The balance of any award shall be forwarded to the payee after full payment of all outstanding restitution orders and restitution fines, subject to

subdivisions (c) and (f). The Department of Corrections shall make all reasonable efforts to notify the victims of the crime for which that person was convicted concerning the pending payment of any compensatory or punitive damages.

(k) (1) Amounts transferred to the California Victim Compensation and Government Claims Board for payment of direct orders of restitution shall be paid to the victim within 60 days from the date the restitution revenues are received by the California Victim Compensation and Government Claims Board. If the restitution payment to a victim is less than fifty dollars (\$50), then payment need not be forwarded to that victim until the payment reaches fifty dollars (\$50) or until 180 days from the date the first payment is received, whichever occurs sooner.

(2) In any case in which a victim cannot be located, the restitution revenues received by the California Victim Compensation and Government Claims Board on behalf of the victim shall be held in trust in the Restitution Fund until the end of the state fiscal year subsequent to the state fiscal year in which the funds were deposited or until the time that the victim has provided current address information, whichever occurs sooner. Amounts remaining in trust at the end of the specified period of time shall revert to the Restitution Fund.

(3) Any victim failing to provide a current address within the period of time specified in paragraph (2) may provide documentation to the Department of Corrections, which in turn shall verify that moneys were in fact collected on behalf of the victim. Upon receipt of that verified information from the Department of Corrections, the California Victim Compensation and Government Claims Board shall transmit the restitution revenues to the victim in accordance with the provisions of subdivision (b).

(l) This section shall become operative on July 1, 2008.

SEC. 11.1. Section 2085.5 is added to the Penal Code, to read:

2085.5. (a) In any case in which a prisoner owes a restitution fine imposed pursuant to subdivision (a) of Section 13967 of the Government Code, as operative prior to September 28, 1994, subdivision (b) of Section 730.6 of the Welfare and Institutions Code, or subdivision (b) of Section 1202.4, the Director of Corrections shall deduct a minimum of 20 percent or the balance owing on the fine amount, whichever is less, up to a maximum of

1 30 percent from the wages and trust account deposits of a prisoner;
2 unless prohibited by federal law, and shall transfer that amount to
3 the California Victim Compensation and Government Claims
4 Board for deposit in the Restitution Fund in the State Treasury. Any
5 amount so deducted shall be credited against the amount owing on
6 the fine. The sentencing court shall be provided a record of the
7 payments.

8 (b) In any case in which a prisoner owes a restitution order
9 imposed pursuant to subdivision (c) of Section 13967 of the
10 Government Code, as operative prior to September 28, 1994, or
11 subdivision (h) of Section 730.6 of the Welfare and Institutions
12 Code, or subdivision (f) of Section 1202.4, the Director of
13 Corrections shall deduct a minimum of 20 percent or the balance
14 owing on the order amount, whichever is less, up to a maximum of
15 30 percent from the wages and trust account deposits of a prisoner,
16 unless prohibited by federal law. If the restitution is owed to a
17 person who has filed an application with the Victim Compensation
18 Program, the director shall transfer that amount to the California
19 Victim Compensation and Government Claims Board for direct
20 payment to the victim, or payment shall be made to the Restitution
21 Fund to the extent that the victim has received assistance pursuant
22 to that program. No deductions shall be made on behalf of victims
23 who have not filed an application with the Victim Compensation
24 Program. The sentencing court shall be provided a record of the
25 payments made to victims and of the payments deposited to the
26 Restitution Fund pursuant to this subdivision.

27 (c) The director shall deduct and retain from the wages and
28 trust account deposits of a prisoner, unless prohibited by federal
29 law, an administrative fee that totals 5 percent of any amount
30 transferred to the California Victim Compensation and
31 Government Claims Board pursuant to subdivision (a) or (b). The
32 director shall deduct and retain from any prisoner settlement or
33 trial award, an administrative fee that totals 5 percent of any
34 amount paid from the settlement or award to satisfy an outstanding
35 restitution order or fine pursuant to subdivision (j), unless
36 prohibited by federal law. The director shall deposit the
37 administrative fee moneys in a special deposit account for
38 reimbursing administrative and support costs of the restitution
39 program of the Department of Corrections.

1 (d) In any case in which a parolee owes a restitution fine
2 imposed pursuant to subdivision (a) of Section 13967 of the
3 Government Code, as operative prior to September 28, 1994, or
4 subdivision (b) of Section 730.6 of the Welfare and Institutions
5 Code, or subdivision (b) of Section 1202.4, the Director of
6 Corrections may collect from the parolee any moneys owing on the
7 restitution fine amount, unless prohibited by federal law. The
8 director shall transfer that amount to the California Victim
9 Compensation and Government Claims Board for deposit in the
10 Restitution Fund in the State Treasury. Any amount so deducted
11 shall be credited against the amount owing on the fine. The
12 sentencing court shall be provided a record of the payments.

13 (e) In any case in which a parolee owes a direct order of
14 restitution, imposed pursuant to subdivision (c) of Section 13967
15 of the Government Code, as operative prior to September 28,
16 1994, subdivision (h) of Section 730.6 of the Welfare and
17 Institutions Code, or paragraph (3) of subdivision (a) of Section
18 1202.4, the Director of Corrections may collect from the parolee
19 any moneys owing, unless prohibited by federal law. If the
20 restitution is owed to a person who has filed an application with
21 the Victim Compensation Program, the director shall transfer that
22 amount to the California Victim Compensation and Government
23 Claims Board for direct payment to the victim, or payment shall be
24 made to the Restitution Fund to the extent that the victim has
25 received assistance pursuant to that program. No deductions shall
26 be made on behalf of victims who have not filed an application with
27 the Victim Compensation Program. The sentencing court shall be
28 provided a record of the payments made by the offender pursuant
29 to this subdivision.

30 (f) The director may deduct and retain from any moneys
31 collected from parolees an administrative fee that totals 10 percent
32 of any amount transferred to the California Victim Compensation
33 and Government Claims Board pursuant to subdivision (d) or (e),
34 unless prohibited by federal law. The director shall deduct and
35 retain from any settlement or trial award of a parolee an
36 administrative fee that totals 5 percent of any amount paid from the
37 settlement or award to satisfy an outstanding restitution order or
38 fine pursuant to subdivision (j), unless prohibited by federal law.
39 The director shall deposit the administrative fee moneys in a
40 special deposit account for reimbursing administrative and

1 *support costs of the restitution program of the Department of*
2 *Corrections.*

3 *(g) When a prisoner has both a restitution fine and a restitution*
4 *order from the sentencing court, the Department of Corrections*
5 *shall collect the restitution order first, pursuant to subdivision (b).*

6 *(h) When a parolee has both a restitution fine and order from*
7 *the sentencing court, the Department of Corrections may collect*
8 *the restitution order first, pursuant to subdivision (e).*

9 *(i) If an inmate is housed at an institution that requires food to*
10 *be purchased from the institution canteen for unsupervised*
11 *overnight visits, and if the money for the purchase of this food is*
12 *received from funds other than the inmate's wages, that money*
13 *shall be exempt from restitution deductions. This exemption shall*
14 *apply to the actual amount spent on food for the visit up to a*
15 *maximum of fifty dollars (\$50) for visits that include the inmate*
16 *and one visitor, seventy dollars (\$70) for visits that include the*
17 *inmate and two or three visitors, and eighty dollars (\$80) for visits*
18 *that include the inmate and four or more visitors.*

19 *(j) Any compensatory or punitive damages awarded by trial or*
20 *settlement to any inmate or parolee in connection with a civil*
21 *action brought against any federal, state, or local jail, prison, or*
22 *correctional facility, or any official or agent thereof, shall be paid*
23 *directly, after payment of reasonable attorney's fees and litigation*
24 *costs approved by the court, to satisfy any outstanding restitution*
25 *orders or restitution fines against that person. The balance of any*
26 *award shall be forwarded to the payee after full payment of all*
27 *outstanding restitution orders and restitution fines, subject to*
28 *subdivisions (c) and (f). The Department of Corrections shall make*
29 *all reasonable efforts to notify the victims of the crime for which*
30 *that person was convicted concerning the pending payment of any*
31 *compensatory or punitive damages.*

32 *(k) (1) Amounts transferred to the California Victim*
33 *Compensation and Government Claims Board for payment of*
34 *direct orders of restitution shall be paid to the victim within 60 days*
35 *from the date the restitution revenues are received by the*
36 *California Victim Compensation and Government Claims Board.*
37 *If the restitution payment to a victim is less than fifty dollars (\$50),*
38 *then payment need not be forwarded to that victim until the*
39 *payment reaches fifty dollars (\$50) or until 180 days from the date*
40 *the first payment is received, whichever occurs sooner.*

(2) *In any case in which a victim cannot be located, the restitution revenues received by the California Victim Compensation and Government Claims Board on behalf of the victim shall be held in trust in the Restitution Fund until the end of the state fiscal year subsequent to the state fiscal year in which the funds were deposited or until the time that the victim has provided current address information, whichever occurs sooner. Amounts remaining in trust at the end of the specified period of time shall revert to the Restitution Fund.*

(3) *Any victim failing to provide a current address within the period of time specified in paragraph (2) may provide documentation to the Department of Corrections, which in turn shall verify that moneys were in fact collected on behalf of the victim. Upon receipt of that verified information from the Department of Corrections, the California Victim Compensation and Government Claims Board shall transmit the restitution revenues to the victim in accordance with the provisions of subdivision (b).*

(1) This section shall become operative on July 1, 2008.

SEC. 12. Commencing with the 2004–05 budget, the Department of Corrections shall include in the Governor’s budget a display of revenue and expenditures for the administrative fee collected pursuant to subdivisions (c) and (f) of Section 2085.5 of the Penal Code. Commencing with the 2004–05 fiscal year, these administrative fees shall be expended only upon appropriation by the Legislature.

SEC. 13. (a) The Administrative Office of the Courts shall establish a workgroup to review the current policies and processes by which criminal fines and penalties are imposed by the courts, including a review of how restitution fines and orders are imposed and collected.

(b) The workgroup’s review may include, among other issues as determined by the group, any of the following:

(1) Evaluate the cumulative and marginal impact of statutorily imposed restitution fines on the collection of the fines and the offender’s actual ability to pay.

(2) Evaluate the imposition of other fines and penalties and how all of those fines and penalties interact and affect the collection of the total imposed.

1 (3) Develop recommendations that are intended to improve the
2 effectiveness of the collection of fines for the victims of crime
3 program and increased collections for that program as well as the
4 other fines and penalties imposed on offenders.

5 (4) Consider the impact of increased imposition of fines and
6 penalties as an option to fund state programs.

7 (c) The workgroup shall be chaired by the Administrative
8 Director of the Courts or his or her designee. The workgroup shall
9 be composed of representatives of the courts, probation
10 department, Department of Corrections, the California Youth
11 Authority, the California Victim Compensation and Claims Board,
12 Department of Finance, the Attorney General, groups representing
13 victims of crimes and offender families, public defenders, district
14 attorneys, the Commission on Peace Officer Standards and
15 Training, local governments, the Legislative Analyst, and other
16 groups as determined by the chairperson.

17 (d) The workgroup shall report its findings and
18 recommendations to the Legislature no later than February 1,
19 2004.

20 SEC. 14. *Section 8.1 of this bill incorporates amendments to*
21 *Section 1202.4 of the Penal Code proposed by both this bill and*
22 *SB 631. It shall only become operative if (1) both bills are enacted*
23 *and become effective on or before January 1, 2004, (2) each bill*
24 *amends Section 1202.4 of the Penal Code, and (3) this bill is*
25 *enacted after SB 631, in which case Section 1202.4 of the Penal*
26 *Code as amended by Section 2 of SB 631, shall remain operative*
27 *only until the operative date of this bill, at which time Section 8.1*
28 *of this bill shall become operative, and Section 8 of this bill shall*
29 *not become operative.*

30 SEC. 14.1. *Section 9.1 of this bill incorporates changes in*
31 *Section 1202.4 of the Penal Code proposed by both Section 9 of*
32 *this bill and SB 631, to become operative on January 1, 2007. It*
33 *shall only become operative if (1) both bills are enacted and*
34 *become effective on or before January 1, 2004, (2) SB 631 amends,*
35 *and this bill amends, repeals, and adds Section 1202.4 of the Penal*
36 *Code, and (3) this bill is enacted after SB 631, in which case*
37 *Section 1202.4 of the Penal Code as amended by Section 2 of SB*
38 *631, shall remain operative only until the operative date of this*
39 *bill, at which time Section 8.1 of this bill shall become operative*
40 *until January 1, 2007, at which time Section 9.1 of this bill shall*

1 *become operative, and Section 9 of this bill shall not become*
2 *operative.*

3 *SEC. 15. Section 10.1 of this bill incorporates amendments to*
4 *Section 2085.5 of the Penal Code proposed by both this bill and*
5 *SB 631. It shall only become operative if (1) both bills are enacted*
6 *and become effective on or before January 1, 2004, (2) each bill*
7 *amends Section 2085.5 of the Penal Code, and (3) this bill is*
8 *enacted after SB 631, in which case Section 2085.5 of the Penal*
9 *Code as amended by SB 631, shall remain operative only until the*
10 *operative date of this bill, at which time Section 10.1 of this bill*
11 *shall become operative, and Section 10 of this bill shall not become*
12 *operative.*

13 *SEC. 15.1. Section 11.1 of this bill incorporates changes in*
14 *Section 2085.5 of the Penal Code proposed by both Section 11 of*
15 *this bill and SB 631, to become operative on July 1, 2008. It shall*
16 *only become operative if (1) both bills are enacted and become*
17 *effective on or before January 1, 2004, (2) SB 631 amends, and this*
18 *bill amends, repeals, and adds Section 2085.5 of the Penal Code,*
19 *and (3) this bill is enacted after SB 631, in which case Section*
20 *2085.5 of the Penal Code as amended by Section 6 of SB 631, shall*
21 *remain operative only until the operative date of this bill, at which*
22 *time Section 10.1 of this bill shall become operative until July 1,*
23 *2008, at which time Section 11.1 of this bill shall become*
24 *operative, and Section 11 of this bill shall not become operative.*
25 *Section 1 of this bill shall become operative on January 1, 2004.*

26 *SEC. 15. This act is an urgency statute necessary for the*
27 *immediate preservation of the public peace, health, or safety*
28 *within the meaning of Article IV of the Constitution and shall go*
29 *into immediate effect. The facts constituting the necessity are:*

30 *In order that the changes made by this act to the Victims*
31 *Compensation Program may take effect, the diversion restitution*
32 *fees imposed on criminal defendants may be increased, and a*
33 *workgroup be established to review the policies and processes by*
34 *which criminal fines and penalties are imposed may take effect, at*
35 *the earliest possible time, it is necessary for this act to take effect*
36 *immediately as an urgency statute.*

